



# Housing Act 1985

1985 CHAPTER 68

## PART I

### INTRODUCTORY PROVISIONS

#### *Local housing authorities*

#### **1 Local housing authorities.**

In this Act “local housing authority” means a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly.

#### **2 The district of a local housing authority.**

- (1) References in this Act to the district of a local housing authority are to the area of the council concerned, that is, to the district, London borough, the City of London or the Isles of Scilly, as the case may be.
- (2) References in this Act to “the local housing authority”, in relation to land, are to the local housing authority in whose district the land is situated.

#### **3 Buildings situated in more than one district.**

- (1) Where a building is situated partly in the district of one local housing authority and partly in the district of another, the authorities may agree that—
  - (a) the building, or
  - (b) the building, its site and any yard, garden, outhouses and appurtenances belonging to the building or usually enjoyed with it,shall be treated for the purposes of the enactments relating to housing as situated in such one of the districts as is specified in the agreement.

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- (2) Whilst the agreement is in force the enactments relating to housing have effect accordingly.

*Other authorities and bodies*

**4 Other descriptions of authority.**

In this Act—

- (a) “housing authority” means a local housing authority, a new town corporation or the Development Board for Rural Wales;
- (b) “new town corporation” means a development corporation or the Commission for the New Towns;
- (c) “development corporation” means a development corporation established by an order made, or having effect as if made, under the New Towns Act 1981;
- (d) “urban development corporation” means an urban development corporation established under Part XVI of the Local Government, Planning and Land Act 1980;
- (e) “local authority” means a county, district or London borough council, the Common Council of the City of London or the Council of the Isles of Scilly, and in sections 45(2)(b), 50(2), 51(6), 80(1), 157(1), 171(2), 438, 441, 442, 443, 444(4), 452(2), 453(2), 573(1), paragraph 2(1) of Schedule 1, grounds 7 and 12 in Schedule 2, ground 5 in Schedule 3, paragraph 7(1) of Schedule 4, paragraph 5(1)(b) of Schedule 5 and Schedule 16 includes the Inner London Education Authority and a joint authority established by Part IV of the Local Government Act 1985.

**5 Housing associations.**

- (1) In this Act “housing association” means a society, body of trustees or company—
- (a) which is established for the purpose of, or amongst whose objects or powers are included those of, providing, constructing, improving or managing, or facilitating or encouraging the construction or improvement of, housing accommodation, and
  - (b) which does not trade for profit or whose constitution or rules prohibit the issue of capital with interest or dividend exceeding such rate as may be prescribed by the Treasury, whether with or without differentiation as between share and loan capital.
- (2) In this Act “fully mutual”, in relation to a housing association, means that the rules of the association—
- (a) restrict membership to persons who are tenants or prospective tenants of the association, and
  - (b) preclude the granting or assignment of tenancies to persons other than members;
- and “co-operative housing association” means a fully mutual housing association which is a society registered under the Industrial and Provident Societies Act 1965.
- (3) In this Act “self-build society” means a housing association whose object is to provide, for sale to, or occupation by, its members, dwellings built or improved principally with the use of its members' own labour.

- (4) References in this Act to registration in relation to a housing association are to registration under the Housing Associations Act 1985.

## **6 Housing trusts.**

In this Act “housing trust” means a corporation or body of persons which—

- (a) is required by the terms of its constituent instrument to use the whole of its funds, including any surplus which may arise from its operations, for the purpose of providing housing accommodation, or
- (b) is required by the terms of its constituent instrument to devote the whole, or substantially the whole, of its funds for charitable purposes and in fact uses the whole, or substantially the whole, of its funds for the purpose of providing housing accommodation.

### *Supplementary provisions*

## **7 Index of defined expressions: Part I.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

district (of a local housing authority)	section 2(1)
local housing authority	section 1, 2(2)
tenancy and tenant	section 621

## **PART II**

### **PROVISION OF HOUSING ACCOMMODATION**

#### *Main powers and duties of local housing authorities*

## **8 Periodical review of housing needs.**

- (1) Every local housing authority shall consider housing conditions in their district and the needs of the district with respect to the provision of further housing accommodation.
- (2) For that purpose the authority shall review any information which has been brought to their notice, including in particular information brought to their notice as a result of inspections and surveys carried out under section 605 (periodical review of housing conditions).

## **9 Provisions of housing accommodation.**

- (1) A local housing authority may provide housing accommodation—
  - (a) by erecting houses, or converting buildings into houses, on land acquired by them for the purposes of this Part, or
  - (b) by acquiring houses.

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- (2) The authority may alter, enlarge, repair or improve a house so erected, converted or acquired.
- (3) These powers may equally be exercised in relation to land acquired for the purpose—
  - (a) of disposing of houses provided, or to be provided, on the land, or
  - (b) of disposing of the land to a person who intends to provide housing accommodation on it.
- (4) A local housing authority may not under this Part provide a cottage with a garden of more than one acre.

#### **10 Provision of furnishings and fittings.**

- (1) A local housing authority may fit out, furnish and supply a house provided by them under this Part with all requisite furniture, fittings and conveniences.
- (2) A local housing authority may sell, or supply under a hire-purchase agreement or a conditional sale agreement, furniture to the occupants of houses so provided, and may for that purpose buy furniture.
- (3) In subsection (2) “conditional sale agreement” and “hire-purchase agreement” have the same meaning as in the Consumer Credit Act 1974.

#### **11 Provision of board and laundry facilities.**

- (1) A local housing authority may provide in connection with the provision of housing accommodation by them under this Part—
  - (a) facilities for obtaining meals and refreshments, and
  - (b) facilities for doing laundry and laundry services,such as accord with the needs of the persons for whom the housing accommodation is provided.
- (2) The authority may make reasonable charges for meals and refreshments provided by virtue of this section and for the use of laundry facilities or laundry services so provided.
- (3) A justices' licence under the Licensing Act 1964 for the sale of intoxicating liquor in connection with the provision of facilities for obtaining meals and refreshments under this section shall only authorise the sale of such liquor for consumption with a meal.
- (4) A local housing authority in carrying on activities under this section is subject to all relevant enactments and rules of law, including enactments relating to the sale of intoxicating liquor, in the same manner as other persons carrying on such activities.

#### **12 Provision of shops, recreation grounds, etc.**

- (1) A local housing authority may, with the consent of the Secretary of State, provide and maintain in connection with housing accommodation provided by them under this Part—
  - (a) buildings adapted for use as shops,
  - (b) recreation grounds, and

- (c) other buildings or land which, in the opinion of the Secretary of State, will serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided.
- (2) The Secretary of State may, in giving his consent, by order apply, with any necessary modifications, any statutory provisions which would have been applicable if the land or buildings had been provided under any enactment giving a local authority powers for the purpose.
- (3) The power conferred by subsection (1) may be exercised either by the local housing authority themselves or jointly with another person.

### **13 Provision of streets, roads and open spaces and development generally.**

- (1) A local housing authority may lay out and construct public streets or roads and open spaces on land acquired by them for the purposes of this Part.
- (2) Where they dispose of land to a person who intends to provide housing accommodation on it, they may contribute towards the expenses of the development of the land and the laying out and construction of streets on it, subject to the condition that the streets are dedicated to the public.

### **14 Exercise of powers by authority outside district.**

- (1) A local housing authority may, for supplying the needs of their district, exercise outside their district the powers conferred by sections 9 to 13 (provision of housing accommodation and related powers).
- (2) A district council shall before doing so give notice of their intention—
  - (a) to the council of the county in which their district is situated, and
  - (b) if they propose to exercise the power outside that county, to the council of the county in which they propose to exercise the power;but failure to give notice does not invalidate the exercise of the power.
- (3) Where housing operations under this Part are being carried out by a local housing authority outside their own district, the authority's power to execute works necessary for the purposes of, or incidental to the carrying out of, the operations, is subject to entering into an agreement with the council of the county, London borough or district in which the operations are being carried out, as to the terms and conditions on which the works are to be executed.
- (4) Where housing operations under this Part have been carried out by a local housing authority outside their own district, and for the purposes of the operations public streets or roads have been constructed and completed by the authority, the liability to maintain the streets or roads vests in the council which is the local highway authority for the area in which the operations were carried out unless that council are satisfied that the streets or roads have not been properly constructed.
- (5) Where a local housing authority carry out housing operations outside their own district, any difference arising between that authority and any authority in whose area the operations are carried out may be referred by either authority to the Secretary of State whose decision shall be final and binding on them.

*Powers of authorities in London*

**15 Additional powers of authorities in London.**

- (1) A London borough council may provide and maintain in connection with housing accommodation provided by them under this Part buildings or parts of buildings adapted for use for any commercial purpose.
- (2) A local housing authority in Greater London may make arrangements for the rehousing of any person by another such authority; and the arrangements may include provision for the payment of contributions by the former authority to the latter.
- (3) The council of an Inner London borough and the Common Council of the City of London may, for the purpose of facilitating the erection of houses in their district, suspend, alter or relax the provisions of any enactment or byelaw relating to the formation or laying out of new streets or the construction of sewers or of buildings intended for human habitation.
- (4) The powers conferred by subsections (1) and (3) are exercisable only with the consent of the Secretary of State.

**16 Exercise of powers outside Greater London.**

- (1) A local housing authority in Greater London shall not exercise any powers under this Part outside Greater London unless it appears to the Secretary of State, on an application by the authority, expedient that the needs of the authority's district with respect to the provision of housing accommodation should be satisfied by the provision of such accommodation outside Greater London, and he consents to the exercise of the power.
- (2) The power conferred by section 15(1) (provision of commercial buildings) shall not be exercised outside Greater London except with the consent of the council of the district concerned.

*Acquisition of land, etc.*

**17 Acquisition of land for housing purposes.**

- (1) A local housing authority may for the purposes of this Part—
  - (a) acquire land as a site for the erection of houses,
  - (b) acquire houses, or buildings which may be made suitable as houses, together with any land occupied with the houses or buildings,
  - (c) acquire land proposed to be used for any purpose authorised by sections 11, 12 and 15(1) (facilities provided in connection with housing accommodation), and
  - (d) acquire land in order to carry out on it works for the purpose of, or connected with, the alteration, enlarging, repair or improvement of an adjoining house.
- (2) The power conferred by subsection (1) includes power to acquire land for the purpose of disposing of houses provided, or to be provided, on the land or of disposing of the land to a person who intends to provide housing accommodation on it.

- (3) Land may be acquired by a local housing authority for the purposes of this Part by agreement, or they may be authorised by the Secretary of State to acquire it compulsorily.
- (4) A local housing authority may, with the consent of, and subject to any conditions imposed by, the Secretary of State, acquire land for the purposes of this Part notwithstanding that the land is not immediately required for those purposes; but an authority shall not be so authorised to acquire land compulsorily unless it appears to the Secretary of State that the land is likely to be required for those purposes within ten years from the date on which he confirms the compulsory purchase order.

## **18 Duties with respect to buildings acquired for housing purposes.**

- (1) Where a local housing authority acquire a building which may be made suitable as a house, they shall forthwith proceed to secure that the building is so made suitable either by themselves executing any necessary works or by leasing it or selling it to some person subject to conditions for securing that he will so make it suitable.
- (2) Where a local housing authority—
  - (a) acquire a house, or
  - (b) acquire a building which may be made suitable as a house and themselves carry out any necessary work as mentioned in subsection (1),they shall, as soon as practicable after the acquisition or, as the case may be, after the completion of the necessary works, secure that the house or building is used as housing accommodation.

## **19 Appropriation of land.**

- (1) A local housing authority may appropriate for the purposes of this Part any land for the time being vested in them or at their disposal; and the authority have the same powers in relation to land so appropriated as they have in relation to land acquired by them for the purposes of this Part.
- (2) Where a local housing authority have acquired or appropriated land for the purposes of this Part, they shall not, without the consent of the Secretary of State, appropriate any part of the land consisting of a house or part of a house for any other purpose.
- (3) The Secretary of State's consent may be given—
  - (a) either generally to all local housing authorities or to a particular authority or description of authority, and
  - (b) either in relation to particular land or in relation to land of a particular description;and it may be given subject to conditions.

### *Housing management*

## **20 Application of housing management provisions.**

- (1) The following provisions of this Part down to section 26 (general provisions on housing management matters) apply in relation to all houses held by a local housing authority for housing purposes.

- (2) References in those provisions to an authority's houses shall be construed accordingly.

**21 General powers of management.**

- (1) The general management, regulation and control of a local housing authority's houses is vested in and shall be exercised by the authority and the houses shall at all times be open to inspection by the authority.
- (2) Subsection (1) has effect subject to section 27 (agreements for exercise of housing management functions by co-operative).

**22 Allocation of housing.**

A local housing authority shall secure that in the selection of their tenants a reasonable preference is given to—

- (a) persons occupying insanitary or overcrowded houses,
- (b) persons having large families,
- (c) persons living under unsatisfactory housing conditions, and
- (d) persons towards whom the authority are subject to a duty under section 65 or 68 (persons found to be homeless).

**23 Byelaws.**

- (1) A local housing authority may make byelaws for the management, use and regulation of their houses.
- (2) A local housing authority may make byelaws with respect to the use of land held by them by virtue of section 12 (recreation grounds and other land provided in connection with housing), excluding land covered by buildings or included in the curtilage of a building or forming part of a highway.
- (3) A local housing authority shall as respects their lodging-houses by byelaws make sufficient provision for the following purposes—
- (a) for securing that the lodging-houses are under the management and control of persons appointed or employed by them for the purpose,
  - (b) for securing the due separation at night of men and boys above eight years old from women and girls,
  - (c) for preventing damage, disturbance, interruption and indecent and offensive language and behaviour and nuisances, and
  - (d) for determining the duties of the persons appointed by them;
- and a printed copy or a sufficient abstract of the byelaws relating to lodging-houses shall be put up and at all times kept in every room in the lodging-houses.

**24 Rents.**

- (1) A local housing authority may make such reasonable charges as they may determine for the tenancy or occupation of their houses.
- (2) The authority shall from time to time review rents and make such changes, either of rents generally or of particular rents, as circumstances may require.



## **25 Increase of rent where tenancy not secure.**

- (1) This section applies where a house is let by a local housing authority on a weekly or other periodic tenancy which is not a secure tenancy.
- (2) The rent payable under the tenancy may, without the tenancy being terminated, be increased with effect from the beginning of a rental period by a written notice of increase given by the authority to the tenant.
- (3) The notice is not effective unless—
  - (a) it is given at least four weeks before the beginning of the rental period, or any earlier day on which the payment of rent in respect of that period falls to be made,
  - (b) it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so, and
  - (c) it gives him the dates by which, if in accordance with subsection (4) the increase is not to be effective, a notice to quit must be received by the authority and the tenancy be made to terminate.
- (4) Where the notice is given for the beginning of a rental period and the tenancy continues into that period, the notice shall not have effect if—
  - (a) the tenancy is terminated by notice to quit given by the tenant in accordance with the provisions (express or implied) of the tenancy,
  - (b) the notice to quit is given before the end of the period of two weeks following the date on which the notice of increase is given, or such longer period as may be allowed by the notice of increase, and
  - (c) the date on which the tenancy is made to terminate is not later than the earliest day on which the tenancy could be terminated by a notice to quit given by the tenant on the last day of that period.
- (5) In this section “rental period” means a period in respect of which a payment of rent falls to be made.

## **26 Financial assistance towards tenants' removal expenses.**

- (1) Where a tenant of one of the houses of a local authority moves to another house (whether or not that house is also one of theirs), the authority may—
  - (a) pay any expenses of the removal, and
  - (b) where the tenant is purchasing the house, pay any expenses incurred by him in connection with the purchase, other than the purchase price.
- (2) If the house belongs to the same authority subsection (1)(b) only applies if the house has never been let and was built expressly with a view to sale or for letting.
- (3) The Secretary of State may give directions to authorities in general or to any particular authority—
  - (a) as to the expenses which may be treated (whether generally or in any particular case) as incurred in connection with the purchase of a house, and
  - (b) limiting the amount which they may pay in respect of such expenses.
- (4) An authority may make their payment of expenses subject to conditions.

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*Agreements with housing co-operatives*

**27 Agreements with housing co-operatives.**

- (1) A local housing authority may, with the approval of the Secretary of State, make an agreement with a housing co-operative—
  - (a) for the exercise by the co-operative, on such terms as may be provided in the agreement, of any of the authority’s powers relating to land in which the authority has a legal estate and for the time being holds for the purposes of this Part, and the performance by the co-operative of any of the authority’s duties relating to such land, or
  - (b) for the exercise by the co-operative, in connection with such land, of any of the authority’s powers under section 10 or 11 (provision of furnishings and fittings or board and laundry facilities).
- (2) In this section “housing co-operative” means a society, company or body of trustees for the time being approved by the Secretary of State for the purposes of this section.
- (3) The Secretary of State’s approval to the making of an agreement may be given either—
  - (a) generally to local housing authorities, or
  - (b) to particular authorities or descriptions of authority;
 and may be given unconditionally or subject to conditions.
- (4) The terms of the agreement may provide for the letting of land by the authority to the co-operative.
- (5) Where an authority has entered into an agreement under this section, neither the agreement itself nor any letting of land in pursuance of it shall be taken into account—
  - (a) in determining the authority’s reckonable income or expenditure for the purposes of housing subsidy under Part XIII, or
  - (b) as a ground for recovering, withholding or reducing any sum under section 427 (recoupment of housing subsidy);
 but this applies where the letting is by way of a shared ownership lease only if, and to the extent that, the Secretary of State so determines.
- (6) A housing association is not entitled to a housing association grant under the Housing Associations Act 1985, or to a revenue deficit grant or hostel deficit grant under that Act, in respect of land for the time being comprised in an agreement under this section.

*Powers of county councils*

**28 Reserve powers to provide housing accommodation.**

- (1) County councils have the following reserve powers in relation to the provision of housing accommodation.
- (2) They may undertake any activity for the purposes of, or incidental to, establishing the needs of the whole or a part of the county with respect to the provision of housing accommodation.
- (3) If requested to do so by one or more local housing authorities for districts within the county, they may, with the consent of the Secretary of State, undertake on behalf of

the authority or authorities the provision of housing accommodation in any manner in which they might do so.

- (4) With the approval of the Secretary of State given on an application made by them, they may undertake the provision of housing accommodation in any manner in which a local housing authority for a district within the county might do so.
- (5) The Secretary of State shall not give his consent under subsection (3) or his approval under subsection (4) except after consultation with the local housing authorities who appear to him to be concerned; and his consent or approval may be made subject to such conditions and restrictions as he may from time to time specify and, in particular, may include conditions with respect to—
  - (a) the transfer of the ownership and management of housing accommodation provided by the county council to the local housing authority, and
  - (b) the recovery by the county council from local housing authorities of expenditure incurred by the county council in providing accommodation.
- (6) Before a county council by virtue of subsection (3) or (4) exercise outside the county any power under this Part they shall give notice to the council of the county in which they propose to exercise the power; but failure to give notice does not invalidate the exercise of the power.

## **29 Provision of accommodation for employees of county councils.**

- (1) A county council may provide houses for persons employed or paid by, or by a statutory committee of, the council.
- (2) For that purpose the council may acquire or appropriate land in the same way as a local housing authority may acquire or appropriate land for the purposes of this Part; and land so acquired or appropriated may be disposed of by them in the same way as land held for the purposes of this Part.

### *Miscellaneous powers of other authorities and bodies*

## **30 Application of provisions to new town corporations, etc.**

- (1) The following provisions apply in relation to a new town corporation as they apply in relation to a local housing authority—
  - section 25 (increase of rent where tenancy not secure), and
  - section 26 (financial assistance towards tenants' removal expenses).
- (2) Section 27 (agreements with housing co-operatives) applies in relation to—
  - (a) a new town corporation and the powers of the corporation under the New Towns Act 1981, and
  - (b) the Development Board for Rural Wales and the powers of the Board under the Development of Rural Wales Act 1976,as it applies in relation to a local housing authority and the functions of such an authority referred to in that section.

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### **31 Power of bodies corporate to sell or let land for housing purposes.**

A body corporate holding land may sell, exchange or lease the land for the purpose of providing housing of any description at such price, or for such consideration, or for such rent, as having regard to all the circumstances of the case is the best that can reasonably be obtained, notwithstanding that a higher price, consideration or rent might have been obtained if the land were sold, exchanged or leased for the purpose of providing housing of another description or for a purpose other than the provision of housing.

#### *Disposal of land held for housing purposes*

### **32 Power to dispose of land held for purposes of this Part.**

- (1) Without prejudice to the provisions of Part V (the right to buy), a local authority have power by this section, and not otherwise, to dispose of land held by them for the purposes of this Part.
- (2) A disposal under this section may be effected in any manner but, subject to subsection (3), shall not be made without the consent of the Secretary of State.
- (3) No consent is required for the letting of land under a secure tenancy or under what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 (tenancies, other than long leases, which are not secure).
- (4) For the purposes of this section the grant of an option to purchase the freehold of, or any other interest in, land is a disposal and a consent given to such a disposal extends to a disposal made in pursuance of the option.
- (5) Sections 128 to 132 of the Lands Clauses Consolidation Act 1845 (which require surplus land first to be offered to the original owner and to adjoining land-owners) do not apply to the sale by a local authority of land held by them for the purposes of this Part.

### **33 Covenants and conditions which may be imposed.**

- (1) On a disposal under section 32 the local authority may impose such covenants and conditions as they think fit.
- (2) But a condition of any of the following kinds may be imposed only with the consent of the Secretary of State—
  - (a) a condition limiting the price or premium which may be obtained on a further disposal of a house;
  - (b) in the case of a sale, a condition reserving a right of pre-emption;
  - (c) in the case of a lease, a condition precluding the lessee from assigning the lease or granting a sub-lease.
- (3) In subsection (2)(b) a condition reserving a right of pre-emption means a condition precluding the purchaser from selling or leasing the land unless—
  - (a) he first notifies the authority of the proposed sale or lease and offers to sell or lease the land to them, and
  - (b) the authority refuse the offer or fail to accept it within one month after it is made.

- (4) References in this section to the purchaser or lessee include references to his successors in title and any person deriving title under him or his successors in title.

**34 Consents under ss. 32 and 33.**

- (1) This section applies in relation to the giving of the Secretary of State's consent under section 32 or 33.
- (2) Consent may be given—
- (a) either generally to all local authorities or to a particular authority or description of authority;
  - (b) either in relation to particular land or in relation to land of a particular description.
- (3) Consent may be given subject to conditions.
- (4) Consent may, in particular, be given subject to conditions as to the price, premium or rent to be obtained on the disposal including conditions as to the amount by which on the disposal of a house by way of sale or by the grant or assignment of a lease at a premium, the price or premium is to be, or may be, discounted by the local authority.

**35 Repayment of discount on early disposal.**

- (1) This section applies where, on a disposal of a house under section 32, a discount is given to the purchaser by the local authority in accordance with a consent given by the Secretary of State under subsection (2) of that section; but this section does not apply in any such case if the consent so provides.
- (2) On the disposal the conveyance, grant or assignment shall contain a covenant binding on the purchaser and his successors in title to pay to the authority on demand, if within a period of five years there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal then only on the first of them), an amount equal to the discount, reduced by 20 per cent for each complete year which has elapsed after the conveyance, grant or assignment and before the further disposal.

**36 Liability to repay is a charge on the premises.**

- (1) The liability that may arise under the covenant required by section 35 is a charge on the house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.
- (2) The charge has priority immediately after any legal charge securing an amount—
- (a) left outstanding by the purchaser, or
  - (b) advanced to him by an approved lending institution for the purpose of enabling him to acquire the interest disposed of on the first disposal, or
  - (c) further advanced to him by that institution;
- but the local authority may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to a legal charge securing an amount advanced or further advanced to the purchaser by that institution.
- (3) A charge taking effect by virtue of this section is a land charge for the purposes of section 59 of the Land Registration Act 1925 notwithstanding subsection (5) of that

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section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.

(4) The approved lending institutions for the purposes of this section are—

- a building society,
- a bank,
- a trustee savings bank,
- an insurance company,
- a friendly society,

and any body specified, or of a class or description specified, in an order made under section 156 (which makes provision in relation to disposals in pursuance of the right to buy corresponding to that made by this section).

### **37 Restriction on disposal of dwelling-houses in National Parks, etc.**

(1) Where a conveyance, grant or assignment executed under section 32 is of a house situated in—

- (a) a National Park.
- (b) an area designated under section 87 of the National Parks and Access to the Countryside Act 1949 as an area of outstanding natural beauty, or
- (c) an area designated as a rural area by order under section 157 (which makes provision in relation to disposals in pursuance of the right to buy corresponding to that made by this section),

the conveyance, grant or assignment may (unless it contains a condition of a kind mentioned in section 33(2)(b) or (c) (right of pre-emption or restriction on assignment)) contain a covenant limiting the freedom of the purchaser (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the house in the manner specified below.

(2) The limitation is that until such time (if any) as may be notified in writing by the local authority to the purchaser or a successor in title of his, there will be no relevant disposal which is not an exempted disposal without the written consent of the authority; but that consent shall not be withheld if the disposal is to a person satisfying the condition stated in subsection (3).

(3) The condition is that the person to whom the disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent—

- (a) had his place of work in a region designated by order under section 157(3) which, or part of which, is comprised in the National Park or area, or
- (b) had his only or principal home in such a region;

or has had the one in part or parts of that period and the other in the remainder; but the region need not have been the same throughout the period.

(4) A disposal in breach of such a covenant as is mentioned in subsection (1) is void.

(5) The limitation imposed by such a covenant is a local land charge and, if the land is registered under the Land Registration Act 1925, the Chief Land Registrar shall enter the appropriate restriction on the register of title as if application therefore had been made under section 58 of that Act.

- (6) In this section “purchaser” means the person acquiring the interest disposed of by the first disposal.

### **38 Relevant disposals.**

- (1) A disposal, whether of the whole or part of the house, is a relevant disposal for the purposes of this Part if it is—
- (a) a conveyance of the freehold or an assignment of the lease, or
  - (b) the grant of a lease or sub-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) 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.

### **39 Exempted disposals.**

- (1) A disposal is an exempted disposal for the purposes of this Part if—
- (a) it is a disposal of the whole of the house 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 (2));
  - (b) it is a vesting of the whole of the house in a person taking under a will or on an intestacy;
  - (c) it is a disposal of the whole of the house in pursuance of an order made under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate);
  - (d) it is a compulsory disposal; or
  - (e) the property disposed of is property included with the house by virtue of the definition of “house” in section 56 (yard, garden, outhouses, &c.).
- (2) For the purposes of subsection (1)(a), a person is a qualifying person in relation to a disposal if—
- (a) he is the person or one of the persons by whom the disposal is made,
  - (b) he is the spouse or a former spouse of that person or one of those persons, or
  - (c) he is a member of the family of that person or one of those persons and has resided with him throughout the period of twelve months ending with the disposal.

### **40 Meaning of “compulsory disposal”.**

In this Part a “compulsory disposal” means a disposal of property which is acquired compulsorily, or is acquired by a person who has made or would have made, or for whom another person has made or would have made, a compulsory purchase order authorising its compulsory purchase for the purposes for which it is acquired.

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**41 Exempted disposals which end liability under covenants.**

Where there is a relevant disposal which is an exempted disposal by virtue of section 39(1)(d) or (e) (compulsory disposal or disposal of yard, garden, &c.)—

- (a) the covenant required by section 35 (repayment of discount on early disposal) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant and the charge taking effect by virtue of section 36 (liability to repay a charge on the premises) cease to apply in relation to the property disposed of, and
- (b) any such covenant as is mentioned in section 37 (restriction on disposal of houses in National Parks, etc.) ceases to apply in relation to the property disposed of.

**42 Treatment of options.**

- (1) For the purposes of this Part the grant of an option enabling a person to call for a relevant disposal which is not an exempted disposal shall be treated as such a disposal made to him.
- (2) For the purposes of section 37(2) (requirement of consent to disposal of house in National Park etc.) a consent to such a grant shall be treated as a consent to a disposal made in pursuance of the option.

**43 Consent required for certain disposals not within s. 32.**

- (1) The consent of the Secretary of State is required for the disposal by a local authority, otherwise than in pursuance of Part V (the right to buy), of a house belonging to the authority—
  - (a) which is let on a secure tenancy, or
  - (b) of which a lease has been granted in pursuance of Part V,but which has not been acquired or appropriated by the authority for the purposes of this Part.
- (2) Consent may be given—
  - (a) either generally to all local authorities or to any particular local authority or description of authority, and
  - (b) either generally in relation to all houses or in relation to any particular house or description of house.
- (3) Consent may be given subject to conditions.
- (4) Consent may, in particular, be given subject to conditions as to the price, premium or rent to be obtained on a disposal of the house, including conditions as to the amount by which, on a disposal of the house by way of sale or by the grant or assignment of a lease at a premium, the price or premium is to be, or may be, discounted by the local authority.
- (5) For the purposes of this section the grant of an option to purchase the freehold of, or any other interest in, a house to which this section applies is a disposal and a consent given under this section to such a disposal extends to a disposal made in pursuance of the option.



#### **44 Avoidance of certain disposals of houses without consent.**

- (1) A disposal of a house by a local authority made without the consent required by section 32 or 43 is void, unless—
  - (a) the disposal is to an individual (or to two or more individuals), and
  - (b) the disposal does not extend to any other house.
- (2) Subsection (1) has effect notwithstanding section 29 of the Town and Country Planning Act 1959 and section 128(2) of the Local Government Act 1972 (protection of purchasers dealing with authority).
- (3) In this section “house” does not have the extended meaning applicable by virtue of the definition of “housing accommodation” in section 56, but includes a flat.

#### *Restriction on service charges*

#### **45 Disposals in relation to which ss. 46 to 51 apply, etc. payable after disposal of house.**

- (1) The following provisions of this Part down to section 51 (restrictions on, and provision of information about, services charges) apply where—
  - (a) a house has been disposed of by a public sector authority,
  - (b) the conveyance or grant, or, in the case of an assignment of a lease, the lease, enabled the vendor or lessor to recover from the purchaser or lessee a service charge, and
  - (c) the house is not a flat within the meaning of sections 18 to 30 of the Landlord and Tenant Act 1985 (which make provision for flats corresponding to that made by the following provisions of this Act).
- (2) In subsection (1)(a)—
  - (a) the reference to disposal is to the conveyance of the freehold or the grant or assignment of a long lease (that is, a lease creating a long tenancy as defined in section 115); and
  - (b) “public sector authority” means—
    - a local authority,
    - a new town corporation,
    - an urban development corporation,
    - the Development Board for Rural Wales,
    - the Housing Corporation, or
    - a registered housing association.
- (3) The following provisions—
  - section 170 (power of Secretary of State to give assistance in connection with legal proceedings), and
  - section 181 (jurisdiction of county court),apply to proceedings and questions arising under this section and sections 46 to 51 as they apply to proceedings and questions arising under Part V (the right to buy).

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#### **46 Meaning of “service charge” and related expressions.**

- (1) In sections 45 to 51 “service charge” means an amount payable by the purchaser or lessee—
  - (a) which is payable, directly or indirectly, for services, repairs, maintenance or insurance or the vendor’s or lessor’s costs of management, and
  - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the payee, or (in the case of a lease) a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose—
  - (a) “costs” includes overheads, and
  - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.
- (4) In relation to a service charge—
  - (a) the “payee” means the person entitled to enforce payment of the charge, and
  - (b) the “payer” means the person liable to pay it.

#### **47 Limitation of service charges.**

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—
  - (a) only to the extent that they are reasonably incurred, and
  - (b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;and the amount payable shall be limited accordingly.
- (2) Where the service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction of subsequent charges or otherwise.
- (3) An agreement by the payer (other than an arbitration agreement within the meaning of section 32 of the Arbitration Act 1950) is void in so far as it purports to provide for a determination in a particular manner or on particular evidence of any question—
  - (a) whether an amount payable before costs for services, repairs, maintenance, insurance or management are incurred is reasonable,
  - (b) whether such costs were reasonably incurred, or
  - (c) whether services or works for which costs were incurred are of a reasonable standard.

#### **48 Information as to relevant costs.**

- (1) The payer may require the payee in writing to supply him with a written summary of the costs incurred—
  - (a) if the relevant accounts are made up for periods of twelve months, in the last such period ending not later than the date of the request, or

- (b) if the accounts are not so made up, in the period of twelve months ending with the date of the request,  
and which are relevant to the service charges payable or demanded as payable in that or any other period.
- (2) The payee shall comply with the request within one month of the request or within six months of the end of the period referred to in subsection (1)(a) or (b), whichever is the later.
- (3) The summary shall set out those costs in a way showing how they are or will be reflected in demands for service charges and must be certified by a qualified accountant as in his opinion a fair summary complying with this requirement and as being sufficiently supported by accounts, receipts and other documents which have been produced to him.
- (4) Where the payer has obtained such a summary as is referred to in subsection (1) (whether in pursuance of this section or otherwise, he may within six months of obtaining it require the payee in writing to afford him reasonable facilities—
- (a) for inspecting the accounts, receipts and other documents supporting the summary, and
- (b) for taking copies of extracts from them,
- and the payee shall then make such facilities available to the payer for a period of two months beginning not later than one month after the request is made.
- (5) A request under this section shall be deemed to be served on the payee if it is served on a person who receives the service charge on behalf of the payee; and a person on whom a request is so served shall forward it as soon as possible to the payee.
- (6) A disposal of the house by the payer does not affect the validity of a request made under this section before the disposal; but a person is not obliged to provide a summary or make the facilities available more than once for the same house and for the same period.

#### **49 Information held by superior landlord.**

- (1) If a request under section 48(1) (information about costs incurred) relates in whole or in part to relevant costs incurred by or on behalf of a superior landlord and the payee is not in possession of the relevant information—
- (a) he shall in turn make a written request for the relevant information to the person who is his landlord (and so on if that person is not himself the superior landlord) and the superior landlord shall comply with that request within a reasonable time, and
- (b) the payee shall then comply with the payer's request, or that part of it which relates to the relevant costs incurred by or on behalf of the superior landlord, within the time allowed by section 48 or such further time, if any, as is reasonable in the circumstances.
- (2) If a request made under section 48(4) (inspection of supporting accounts, receipts, etc.) relates to a summary of costs incurred by or on behalf of a superior landlord, the payee shall forthwith inform the payer of that fact and of the name and address of the superior landlord; and section 48(4) shall then apply as if the superior landlord were the payee.

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## **50 Offences.**

- (1) If a person fails without reasonable excuse to perform a duty imposed on him by section 48 or 49 (provision of information, &c.), he commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.
- (2) Subsection (1) does not apply where the payee is—
  - a local authority,
  - a new town corporation, or
  - the Development Board for Rural Wales.

## **51 Meaning of “qualified accountant”.**

- (1) The reference to a “qualified accountant” in section 48(3) (certification of summary of information about relevant costs) is to a person who, in accordance with the following provisions, has the necessary qualification and is not disqualified from acting.
- (2) A person has the necessary qualification if he is a member of one of the following bodies—
  - the Institute of Chartered Accountants in England and Wales,
  - the Institute of Chartered Accountants in Scotland,
  - the Association of Certified Accountants,
  - the Institute of Chartered Accountants in Ireland, or
  - any other body of accountants established in the United Kingdom and recognised by the Secretary of State for the purposes of section 389(1)(a) of the Companies Act 1985,or if he is a person who is for the time being authorised by the Secretary of State under section 389(1)(b) of that Act (or the corresponding provision of the Companies Act 1948) as being a person with similar qualifications obtained outside the United Kingdom.
- (3) A Scottish firm has the necessary qualification if each of the partners in it has the necessary qualification.
- (4) The following are disqualified from acting—
  - (a) a body corporate, except a Scottish firm;
  - (b) an officer or employee of the payee or, where the payee is a company, of an associated company;
  - (c) a person who is a partner or employee of any such officer or employee.
- (5) For the purposes of subsection (4)(b) a company is associated with the payee company if it is (within the meaning of section 736 of the Companies Act 1985) the payee’s holding company or subsidiary or is a subsidiary of the payee’s holding company.
- (6) Where the payee is a local authority, a new town corporation or the Development Board for Rural Wales—
  - (a) the persons who have the necessary qualification include members of the Chartered Institute of Public Finance and Accountancy, and
  - (b) subsection (4)(b) (disqualification of officers and employees) does not apply.

*Miscellaneous*

**52 Compliance with minimum standards in erection of houses.**

A local housing authority by whom a house is erected under the enactments relating to housing, whether with or without financial assistance from the government, shall secure—

- (a) that a fair wages clause complying with the requirements of any resolution of the House of Commons for the time being in force with respect to contracts for government departments is inserted in all contracts for the erection of the house, and
- (b) that, in except in so far as the Secretary of State may, in a particular case, dispense with the observance of this paragraph, the house is provided with a fixed bath in a bathroom.

**53 Prefabs deemed to be houses provided under this Part.**

- (1) This section applies to prefabs, that is to say structures made available to a local authority under section 1 of the Housing (Temporary Accommodation) Act 1944 (“the 1944 Act”).
- (2) For the purposes of this Act prefabs shall be deemed to be houses provided by the local housing authority under this Part.
- (3) A prefab and the land on which it is situated may, if immediately before the repeal of the 1944 Act (on 25th August 1972) it was deemed to be land acquired for the purposes of Part V of the Housing Act 1957, be appropriated or disposed of by the local housing authority in the same way as any other land acquired or deemed to be acquired for the purposes of this Part.
- (4) The provisions of this section do not affect any obligation of a local housing authority to another person as respects the removal or demolition of a prefab.
- (5) References in this section to a prefab include fittings forming part of it.

*Supplementary provisions*

**54 Powers of entry.**

- (1) A person authorised by a local housing authority or the Secretary of State may, at any reasonable time, on giving 24 hours' notice of his intention to the occupier, and to the owner if the owner is known, enter premises for the purpose of survey and examination—
  - (a) where it appears to the authority or Secretary of State that survey or examination is necessary in order to determine whether any powers under this Part should be exercised in respect of the premises, or
  - (b) in the case of premises which the authority are authorised by this Part to purchase compulsorily.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised.

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## 55 **Penalty for obstruction.**

- (1) It is a summary offence to obstruct an officer of the local housing authority, or of the Secretary of State, or any person authorised to enter premises in pursuance of this Part, in the performance of anything which he is by this Part required or authorised to do.
- (2) A person who commits such an offence is liable on conviction to a fine not exceeding level 2 on the standard scale.

## 56 **Minor definitions.**

In this Part—

“house” includes any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it;

“housing accommodation” includes flats, lodging-houses and hostels, and “house” shall be similarly construed;

“lodging-houses” means houses not occupied as separate dwellings;

“member of family” in relation to a person, has the same meaning as in Part V (the right to buy);

“owner”, in relation to premises—

- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years.

## 57 **Index of defined expressions: Part II.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

bank	section 622
building society	section 622
compulsory disposal	section 40
development corporation	section 4(c)
district (of a local housing authority)	section 2(1)
exempted disposal	section 39
family (member of)	sections 56 and 186
friendly society	section 622
hostel	section 622
house	section 56
housing accommodation	section 56
housing association	section 5(1)
Housing Revenue Account	section 417

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insurance company	section 622
lease	section 621
local authority	section 4(e)
local housing authority	sections 1, 2(2)
local housing authority's houses	section 20
lodging-houses	section 56
new town corporation	section 4(b)
owner	section 56
payee and payer (in relation to a service charge)	section 46
qualified accountant (for the purposes of section 48(3))	section 51
registered (in relation to a housing association)	section 5(4)
relevant costs (in relation to a service charge)	section 46(2), (3)
relevant disposal	section 38 (and see section 452(3))
secure tenancy	section 79
service charge	section 46(1)
shared ownership lease	section 622
standard scale (in reference to the maximum fine on summary conviction)	section 622
street	section 622
tenancy and tenant	section 621
trustee savings bank	section 622
urban development corporation	section 4(d)

### PART III

#### HOUSING THE HOMELESS

##### *Main definitions*

#### **58 Homelessness and threatened homelessness.**

- (1) A person is homeless if he has no accommodation in England, Wales or Scotland.
- (2) A person shall be treated as having no accommodation if there is no accommodation which he, together with any other person who normally resides with him as a member of his family or in circumstances in which it is reasonable for that person to reside with him—

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- (a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court, or
  - (b) has an express or implied licence to occupy, or Scotland has a right or permission or an implied right or permission to occupy, or
  - (c) occupies as a residence by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of another person to recover possession.
- (3) A person is also homeless if he has accommodation but—
- (a) he cannot secure entry to it, or
  - (b) it is probable that occupation of it will lead to violence from some other person residing in it or to threats of violence from some other person residing in it and likely to carry out the threats, or
  - (c) it consists of a movable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted both to place it and to reside in it.
- (4) A person is threatened with homelessness if it is likely that he will become homeless within 28 days.

## **59 Priority need for accommodation.**

- (1) The following have a priority need for accommodation—
- (a) a pregnant woman or a person with whom a pregnant woman resides or might reasonably be expected to reside;
  - (b) a person with whom dependent children reside or might reasonably be expected to reside;
  - (c) a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
  - (d) a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.
- (2) The Secretary of State may by order made by statutory instrument—
- (a) specify further descriptions of persons as having a priority need for accommodation, and
  - (b) amend or repeal any part of subsection (1).
- (3) Before making such an order the Secretary of State shall consult such association representing relevant authorities, and such other persons, as he considers appropriate.
- (4) No order shall be made unless a draft of it has been approved by resolution of each House of Parliament.

## **60 Becoming homeless intentionally.**

- (1) A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.
- (2) A person becomes threatened with homelessness intentionally if he deliberately does or fails to do anything the likely result of which is that he will be forced to leave



accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.

- (3) For the purposes of subsection (1) or (2) an act or omission in good faith on the part of a person who was unaware of any relevant fact shall not be treated as deliberate.
- (4) Regard may be had, in determining whether it would have been reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in the district of the local housing authority to whom he applied for accommodation or for assistance in obtaining accommodation.

## **61 Local connection.**

- (1) References in this Part to a person having a local connection with the district of a local housing authority are to his having a connection with that district—
  - (a) because he is, or in the past was, normally resident in that district, and that residence is or was of his own choice, or
  - (b) because he is employed in that district, or
  - (c) because of family associations, or
  - (d) because of special circumstances.
- (2) For the purposes of this section—
  - (a) a person is not employed in a district if he is serving in the regular armed forces of the Crown;
  - (b) residence in a district is not of a person's own choice if he becomes resident in it because he, or a person who might reasonably be expected to reside with him, is serving in the regular armed forces of the Crown.
- (3) Residence in a district is not of a persons' own choice for the purpose of this section if he, or a person who might reasonably be expected to reside with him, became resident in it because he was detained under the authority of an Act of Parliament.
- (4) The Secretary of State may by order specify other circumstances in which—
  - (a) a person is not to be treated for the purposes of this section as employed in a district, or
  - (b) residence in a district is not to be treated for those purposes as of a person's own choice.
- (5) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### *Duties of local housing authorities with respect to homelessness and threatened homelessness*

## **62 Inquiry into cases of possible homelessness or threatened homelessness.**

- (1) If a person (an “applicant”) applies to a local housing authority for accommodation, or for assistance in obtaining accommodation, and the authority have reason to believe that he may be homeless or threatened with homelessness, they shall make such inquiries as are necessary to satisfy themselves as to whether he is homeless or threatened with homelessness.
- (2) If they are so satisfied, they shall make any further inquiries necessary to satisfy themselves as to—

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- (a) whether he has a priority need, and
  - (b) whether he became homeless or threatened with homelessness intentionally;
- and if they think fit they may also make inquiries as to whether he has a local connection with the district of another local housing authority in England, Wales or Scotland.

**63 Interim duty to accommodate in case of apparent priority need.**

- (1) If the local housing authority have reason to believe that an applicant may be homeless and have a priority need, they shall secure that accommodation is made available for his occupation pending a decision as a result of their inquiries under section 62.
- (2) This duty arises irrespective of any local connection which the applicant may have with the district of another local housing authority.

**64 Notification of decision and reasons.**

- (1) On completing their inquiries under section 62, the local housing authority shall notify the applicant of their decision on the question whether he is homeless or threatened with homelessness.
- (2) If they notify him that their decision is that he is homeless or threatened with homelessness, they shall at the same time notify him of their decision on the question whether he has a priority need.
- (3) If they notify him that their decision is that he has a priority need, they shall at the same time notify him—
  - (a) of their decision whether he became homeless or threatened with homelessness intentionally, and
  - (b) whether they have notified or propose to notify another local housing authority under section 67 (referral of application on grounds of local connection).
- (4) If the local housing authority notify the applicant—
  - (a) that they are not satisfied that he is homeless or threatened with homelessness, or
  - (b) that they are not satisfied that he has a priority need, or
  - (c) that they are satisfied that he became homeless or threatened with homelessness intentionally, or
  - (d) that they have notified or propose to notify another local housing authority under section 67 (referral of application on grounds of local connection),they shall at the same time notify him of their reasons.
- (5) The notice required to be given to a person under this section shall be given in writing and shall, if not received by him, be treated as having been given to him only if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

**65 Duties to persons found to be homeless.**

- (1) This section has effect as regards the duties owed by the local housing authority to an applicant where they are satisfied that he is homeless.

- (2) Where they are satisfied that he has a priority need and are not satisfied that he became homeless intentionally, they shall, unless they notify another local housing authority in accordance with section 67 (referral of application on grounds of local connection), secure that accommodation becomes available for his occupation.
- (3) Where they are satisfied that he has priority need but are also satisfied that he became homeless intentionally, they shall—
  - (a) secure that accommodation is made available for his occupation for such period as they consider will give him a reasonable opportunity of securing accommodation for his occupation, and
  - (b) furnish him with advice and such assistance as they consider appropriate in the circumstances in any attempts he may make to secure that accommodation becomes available for his occupation.
- (4) Where they are not satisfied that he has a priority need, they shall furnish him with advice and such assistance as they consider appropriate in the circumstances in any attempts he may make to secure that accommodation becomes available for his occupation.

**66 Duties to persons found to be threatened with homelessness.**

- (1) This section has effect as regards the duties owed by the local housing authority to an applicant where they are satisfied that he is threatened with homelessness.
- (2) Where they are satisfied that he has a priority need and are not satisfied that he became threatened with homelessness intentionally, they shall take reasonable steps to secure that accommodation does not cease to be available for his occupation.
- (3) Where—
  - (a) they are not satisfied that he has a priority need, or
  - (b) they are satisfied that he has a priority need but are also satisfied that he became threatened with homelessness intentionally,they shall furnish him with advice and such assistance as they consider appropriate in the circumstances in any attempts he may make to secure that accommodation does not cease to be available for his occupation.
- (4) Subsection (2) does not affect any right of the local housing authority, whether by virtue of a contract, enactment or rule of law, to secure vacant possession of accommodation.

**67 Referral of application to another local housing authority.**

- (1) If the local housing authority—
  - (a) are satisfied that an applicant is homeless and has a priority need, and are not satisfied that he became homeless intentionally, but
  - (b) are of opinion that the conditions are satisfied for referral of his application to another local housing authority in England, Wales or Scotland,they may notify that other authority of the fact that his application has been made and that they are of that opinion.
- (2) The conditions for referral of an application to another local housing authority are—

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- (a) that neither the applicant nor any person who might reasonably be expected to reside with him has a local connection with the district of the authority to whom his application was made,
  - (b) that the applicant or a person who might reasonably be expected to reside with him has a local connection with the district of that other authority, and
  - (c) that neither the applicant nor any person who might reasonably be expected to reside with him will run the risk of domestic violence in that other district.
- (3) For this purpose a person runs the risk of domestic violence—
- (a) if he runs the risk of violence from a person with whom, but for the risk of violence, he might reasonably be expected to reside, or from a person with whom he formerly resided, or
  - (b) if he runs the risk of threats of violence from such a person which are likely to be carried out.
- (4) The question whether the conditions for referral of an application are satisfied shall be determined by agreement between the notifying authority and the notified authority or, in default of agreement, in accordance with such arrangements as the Secretary of State may direct by order made by statutory instrument.
- (5) An order may direct that the arrangements shall be—
- (a) those agreed by any relevant authorities or associations of relevant authorities, or
  - (b) in default of such agreement, such arrangements as appear to the Secretary of State to be suitable, after consultation with such associations representing relevant authorities, and such other persons, as he thinks appropriate.
- (6) No order shall be made unless a draft of the order has been approved by resolution of each House of Parliament.

## **68 Duties to persons whose applications are referred.**

- (1) Where, in accordance with section 67(1), a local housing authority notify another authority of an application, the notifying authority shall secure that accommodation is available for occupation by the applicant until it is determined whether the conditions for referral of his application to the other authority are satisfied.
- (2) If it is determined that the conditions for referral are satisfied, the notified authority shall secure that accommodation becomes available for occupation by the applicant; if it is determined that the conditions are not satisfied, the notifying authority shall secure that accommodation becomes available for occupation by him.
- (3) When the matter has been determined, the notifying authority shall notify the applicant—
- (a) whether they or the notified authority are the authority whose duty it is to secure that accommodation becomes available for his occupation, and
  - (b) of the reasons why the authority subject to that duty are subject to it.
- (4) The notice required to be given to a person under subsection (3) shall be given in writing and shall, if not received by him, be treated as having been given to him only if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

**69 Provisions supplementary to ss. 63, 65 and 68.**

- (1) A local housing authority may perform any duty under section 65 or 68 (duties to persons found to be homeless, to secure that accommodation becomes available for the occupation of a person—
  - (a) by making available accommodation held by them under Part II (provision of housing) or under any other enactment.
  - (b) by securing that he obtains accommodation from some other person, or
  - (c) by giving him such advice and assistance as will secure that he obtains accommodation from some other person.
- (2) A local housing authority may require a person to whom they were subject to a duty under section 63, 65 or 68 (interim duty to accommodate pending inquiries and duties to persons found to be homeless)—
  - (a) to pay such reasonable charges as they may determine in respect of accommodation which they secure for his occupation (either by making it available themselves or otherwise), or
  - (b) to pay such reasonable amount as they may determine in respect of sums payable by them for accommodation made available by another person.

**70 Protection of property of homeless persons and persons threatened with homelessness.**

- (1) This section applies where a local housing authority have reason to believe that an applicant is homeless or threatened with homelessness (or, in the case of an applicant to whom they owe a duty under section 63 (interim duty to accommodate pending inquiries), that he may be homeless) and that—
  - (a) there is a danger of loss of, or danger to, any personal property of his by reason of his inability to protect it or deal with it, and
  - (b) no other suitable arrangements have been or are being made.
- (2) If the authority have become subject to a duty towards the applicant under section 63, 65(2) or (3)(a), 66(2) or 68 (duty to accommodate during inquiries and duties to persons found to be homeless or threatened with homelessness), then, whether or not they are still subject to such a duty, they shall take reasonable steps to prevent the loss of the property or prevent or mitigate damage to it; and if they have not become subject to such a duty, they may take any steps they consider reasonable for that purpose.
- (3) The authority may for the purposes of this section—
  - (a) enter, at all reasonable times, any premises which are the usual place of residence of the applicant or which were his last usual place of residence, and
  - (b) deal with any personal property of his in any way which is reasonably necessary, in particular by storing it or arranging for its storage.
- (4) The authority may decline to take action under this section except upon such conditions as they consider appropriate in the particular case, which may include conditions as to—
  - (a) the making and recovery by the authority of reasonable charges for the action taken, or
  - (b) the disposal by the authority, in such circumstances as may be specified, of property in relation to which they have taken action.

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- (5) When in the authority's opinion there is no longer any reason to believe that there is a danger of loss of or damage to a person's personal property by reason of his inability to protect it or deal with it, the authority cease to have any duty or power to take action under this section; but property stored by virtue of their having taken such action may be kept in store and any conditions upon which it was taken into store continue to have effect, with any necessary modifications.
- (6) Where the authority—
- (a) cease to be subject to a duty to take action under this section in respect of an applicant's property, or
  - (b) cease to have power to take such action, having previously taken such action, they shall notify the applicant of that fact and of the reason why they are of opinion that there is no longer any reason to believe that there is a danger of loss of or damage to his personal property by reason of his inability to protect it or deal with it.
- (7) The notification shall be given to the applicant—
- (a) by delivering it to him, or
  - (b) by leaving it, or sending it to him, at his last known address.
- (8) References in this section to personal property of the applicant include personal property of any person who might reasonably be expected to reside with him.

*Administrative provisions*

**71 Guidance to authorities by the Secretary of State.**

- (1) In relation to homeless persons and persons threatened with homelessness, a relevant authority shall have regard in the exercise of their functions to such guidance as may from time to time be given by the Secretary of State.
- (2) The Secretary of State may give guidance either generally or to specified descriptions of authorities.

**72 Co-operation between authorities.**

Where a local housing authority—

- (a) request another local housing authority in England, Wales or Scotland, a new town corporation, a registered housing association or the Scottish Special Housing Association to assist them in the discharge of their functions under sections 62, 63, 65 to 67 and 68(1) and (2) (which relate to homelessness and threatened homelessness as such),
- (b) request a social services authority in England, Wales or Scotland to exercise any of their functions in relation to a case which the local housing authority are dealing with under those provisions, or
- (c) request another local housing authority in England, Wales or Scotland to assist them in the discharge of their functions under section 70 (protection of property of homeless persons and persons threatened with homelessness),

the authority to whom the request is made shall co-operate in rendering such assistance in the discharge of the functions to which the request relates as is reasonable in the circumstances.

*Assistance for voluntary organisations*

**73 Financial and other assistance for voluntary organisations concerned with homelessness.**

- (1) The Secretary of State, with the consent of the Treasury, may, upon such terms and subject to such conditions as he may determine, give to a voluntary organisation concerned with homelessness, or with matters relating to homelessness, assistance by way of grant or loan.
- (2) A local housing authority may, upon such terms and subject to such conditions as they may determine, give to such a voluntary organisation such assistance as is mentioned in subsection (1), and may also assist such an organisation by—
  - (a) permitting them to use premises belonging to the authority upon such terms and subject to such conditions as may be agreed,
  - (b) making available furniture or other goods, whether by way of gift, loan or otherwise, and
  - (c) making available the services of staff employed by the authority.
- (3) No assistance shall be given under subsection (1) or (2) unless the voluntary organisation first give an undertaking—
  - (a) that they will use the money, furniture or other goods or premises made available to them for a specified purpose, and
  - (b) that they will, if the person giving the assistance serves notice on them requiring them to do so, furnish, within the period of 21 days beginning with the date on which the notice is served, a certificate giving such information as may reasonably be required by the notice with respect to the manner in which the assistance given to them is being used.
- (4) The conditions subject to which assistance is given under this section shall in all cases include, in addition to any conditions determined or agreed under subsection (1) or (2), conditions requiring the voluntary organisation to—
  - (a) keep proper books of account and have them audited in such manner as may be specified,
  - (b) keep records indicating how they have used the money, furniture or other goods or premises made available to them, and
  - (c) submit the books of account and records for inspection by the person giving the assistance.
- (5) If it appears to the person giving the assistance that the voluntary organisation have failed to carry out their undertaking as to the purpose for which the assistance was to be used, he shall take all reasonable steps to recover from the organisation an amount equal to the amount of the assistance; but no sum is so recoverable unless he has first served on the voluntary organisation a notice specifying the amount which in his opinion is recoverable and the basis on which that amount has been calculated.

*Supplementary provisions*

**74 False statements, withholding information and failure to disclose change of circumstances.**

- (1) If a person with intent to induce a local housing authority to believe, in connection with the exercise of their functions under this Part, that he or another person—
  - (a) is homeless or threatened with homelessness, or
  - (b) has a priority need, or
  - (c) did not become homeless or threatened with homelessness intentionally,knowingly or recklessly makes a statement which is false in a material particular, or knowingly withholds information which the authority have reasonably required him to give in connection with the exercise of those functions, he commits a summary offence.
- (2) If before an applicant receives notification of the local housing authority's decision on his application there is any change of facts material to his case, he shall notify the authority as soon as possible; and the authority shall explain to every applicant, in ordinary language, the duty imposed on him by this subsection and the effect of subsection (3).
- (3) A person who fails to comply with subsection (2) commits a summary offence unless he shows that he was not given the explanation required by that subsection or that he had some other reasonable excuse for non-compliance.
- (4) A person guilty of an offence under this section is liable on conviction to a fine not exceeding level 4 on the standard scale.

**75 Meaning of accommodation available for occupation.**

For the purposes of this Part accommodation shall be regarded as available for a person's occupation only if it is available for occupation both by him and by any other person who might reasonably be expected to reside with him; and references to securing accommodation for a person's occupation shall be construed accordingly.

**76 Application of this Part to cases arising in Scotland.**

- (1) Sections 67 and 68 (referral of application to another local housing authority and duties to persons whose applications are referred) apply—
  - (a) to applications referred by a housing authority in Scotland in pursuance of section 5(1) of the Housing (Homeless Persons) Act 1977, and
  - (b) to persons whose applications are so transferred,as they apply to cases arising under this Part.
- (2) Section 72 (duty of other authorities to co-operate with local housing authority) applies to a request by a housing authority in Scotland under section 9(1) of the Housing (Homeless Persons) Act 1977 as it applies to a request by a local housing authority in England or Wales.
- (3) In this Part, in relation to Scotland—
  - (a) "local housing authority" means a district or islands council and references to the district of such an authority are to the area of that council,



(b) “social services authority” means a local authority for the purposes of the Social Work (Scotland) Act 1968, that is to say, a regional or islands council; and in section 72(a) (requests for co-operation) “new town corporation” includes a development corporation established under the New Towns (Scotland) 1968.

## 77 **Minor definitions.**

In this Part—

“relevant authority” means a local housing authority or social services authority;

“social services authority” means a local authority for the purposes of the Local Authority Social Services Act 1970, as defined in section 1 of that Act;

“voluntary organisation” means a body, not being a public or local authority, whose activities are carried on otherwise than for profit.

## 78 **Index of defined expressions: Part III.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section):—

accommodation available for occupation	section 75.
applicant (for housing accommodation)	section 62(1).
district (of a local housing authority)	sections 2(1) and 76(3).
homeless	sections 58(1) to (3).
housing association	section 5(1).
intentionally homeless or threatened with homelessness	section 60.
local connection (in relation to the district of a local housing authority)	section 61.
local housing authority (in England and Wales)	section 1, 2(2).
(in Scotland)	section 76(3).
new town corporation	sections 4(b) and 76(3).
priority need (for accommodation)	section 59.
registered (in relation to a housing association)	section 5(4).
regular armed forces of the Crown	section 622.
relevant authority	section 77.
securing accommodation for a person’s occupation	section 75.
social services authority	sections 76(3) and 77.

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standard scale (in reference to the maximum fine on summary conviction)	section 622.
threatened with homelessness	section 58(4).
voluntary organisation	section 77.

## PART IV

### SECURE TENANCIES AND RIGHTS OF SECURE TENANTS

#### *Security of tenure*

#### **79 Secure tenancies.**

- (1) A tenancy under which a dwelling-house is let as a separate dwelling is a secure tenancy at any time when the conditions described in sections 80 and 81 as the landlord condition and the tenant condition are satisfied.
- (2) Subsection (1) has effect subject to—
  - (a) the exceptions in Schedule 1 (tenancies which are not secure tenancies),
  - (b) sections 89(3) and (4) and 90(3) and (4) (tenancies ceasing to be secure after death of tenant), and
  - (c) sections 91(2) and 93(2) (tenancies ceasing to be secure in consequence of assignment of subletting).
- (3) The provisions of this Part apply in relation to a licence to occupy a dwelling-house (whether or not granted for a consideration) as they apply in relation to a tenancy.
- (4) Subsection (3) does not apply to a licence granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not, before the grant of that licence, another licence to occupy that or another dwelling-house had been granted to him).

#### **80 The landlord condition.**

- (1) The landlord condition is that the interest of the landlord belongs to one of the following authorities or bodies—
  - a local authority,
  - a new town corporation,
  - an urban development corporation,
  - the Development Board for Rural Wales,
  - the Housing Corporation,
  - a housing trust which is a charity, or
  - a housing association or housing co-operative to which this section applies.
- (2) This section applies to—
  - (a) a registered housing association other than a co-operative housing association, and
  - (b) an unregistered housing association which is a co-operative housing association.

- (3) If a co-operative housing association ceases to be registered, it shall, within the period of 21 days beginning with the date on which it ceases to be registered, notify each of its tenants who thereby becomes a secure tenant, in writing, that he has become a secure tenant.
- (4) This section applies to a housing co-operative within the meaning of section 27 (agreements for exercise of authority's housing management functions by co-operative) where the dwelling-house is comprised in an agreement under that section.

## **81 The tenant condition.**

The tenant condition is that the tenant is an individual and occupies the dwelling-house as his only or principal home; or, where the tenancy is a joint tenancy, that each of the joint tenants is an individual and at least one of them occupies the dwelling-house as his only or principal home.

## **82 Security of tenure.**

- (1) A secure tenancy which is either—
  - (a) a weekly or other periodic tenancy, or
  - (b) a tenancy for a term certain but subject to termination by the landlord,cannot be brought to an end by the landlord except by obtaining an order of the court for the possession of the dwelling-house or an order under subsection (3).
- (2) Where the landlord obtains an order for the possession of the dwelling-house, the tenancy ends on the date on which the tenant is to give up possession in pursuance of the order.
- (3) Where a secure tenancy is a tenancy for a term certain but with a provision for re-entry or forfeiture, the court shall not order possession of the dwelling-house in pursuance of that provision, but in a case where the court would have made such an order it shall instead make an order terminating the tenancy on a date specified in the order and section 86 (periodic tenancy arising on termination of fixed term) shall apply.
- (4) Section 146 of the Law of Property Act 1925 (restriction on and relief against forfeiture), except subsection (4) (vesting in under-lessee), and any other enactment or rule of law relating to forfeiture, shall apply in relation to proceedings for an order under subsection (3) of this section as if they were proceedings to enforce a right of re-entry or forfeiture.

## **83 Notice of proceedings for possession or termination.**

- (1) The court shall not entertain—
  - (a) proceedings for the possession of a dwelling-house let under a secure tenancy, or
  - (b) proceedings for the termination of a secure tenancy,unless the landlord has served on the tenant a notice complying with the provisions of this section.
- (2) The notice shall—
  - (a) be in a form prescribed by regulations made by the Secretary of State,

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- (b) specify the ground on which the court will be asked to make an order for the possession of the dwelling-house or for the termination of the tenancy, and
  - (c) give particulars of that ground.
- (3) Where the tenancy is a periodic tenancy the notice—
- (a) shall also specify a date after which proceedings for the possession of the dwelling-house may be begun, and
  - (b) ceases to be in force twelve months after the date so specified;
- and the date so specified must not be earlier than the date on which the tenancy could, apart from this Part, be brought to an end by notice to quit given by the landlord on the same date as the notice under this section.
- (4) Where the tenancy is a periodic tenancy, the court shall not entertain any such proceedings unless they are begun after the date specified in the notice and at a time when the notice is still in force.
- (5) Where a notice under this section is served with respect to a secure tenancy for a term certain, it has effect also with respect to any periodic tenancy arising on the termination of that tenancy by virtue of section 86; and subsections (3) and (4) of this section do not apply to the notice.
- (6) Regulations under this section shall be made by statutory instrument and may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

#### **84 Grounds and orders for possession.**

- (1) The court shall not make an order for the possession of a dwelling-house let under a secure tenancy except on one or more of the grounds set out in Schedule 2.
- (2) The court shall not make an order for possession—
- (a) on the grounds set out in Part I of that Schedule (grounds 1 to 8), unless it considers it reasonable to make the order,
  - (b) on the grounds set out in Part II of that Schedule (grounds 9 to 11), unless it is satisfied that suitable accommodation will be available for the tenant when the order takes effect,
  - (c) on the grounds set out in Part III of that Schedule (grounds 12 to 16), unless it both considers it reasonable to make the order and is satisfied that suitable accommodation will be available for the tenant when the order takes effect;
- and Part IV of that Schedule has effect for determining whether suitable accommodation will be available for a tenant.
- (3) The court shall not make such an order on any of those grounds unless the ground is specified in the notice in pursuance of which proceedings for possession are begun; but the grounds so specified may be altered or added to with the leave of the court.

#### **85 Extended discretion of court in certain proceedings for possession.**

- (1) Where proceedings are brought for possession of a dwelling-house let under a secure tenancy on any of the grounds set out in Part I or Part III of Schedule 2 (grounds 1 to 8 and 12 to 16: cases in which the court must be satisfied that it is reasonable to make a possession order), the court may adjourn the proceedings for such period or periods as it thinks fit.

- (2) On the making of an order for possession of such a dwelling-house on any of those grounds, or at any time before the execution of the order, the court may—
  - (a) stay or suspend the execution of the order, or
  - (b) postpone the date of possession,for such period or periods as the court thinks fit.
- (3) On such an adjournment, stay, suspension or postponement the court—
  - (a) shall impose conditions with respect to the payment by the tenant of arrears of rent (if any) and rent or payments in respect of occupation after the termination of the tenancy (mesne profits), unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, and
  - (b) may impose such other conditions as it thinks fit.
- (4) If the conditions are complied with, the court may, if it thinks fit, discharge or rescind the order for possession.
- (5) Where proceedings are brought for possession of a dwelling-house which is let under a secure tenancy and—
  - (a) the tenant's spouse or former spouse, having rights of occupation under the Matrimonial Homes Act 1983, is then in occupation of the dwelling-house, and
  - (b) the tenancy is terminated as a result of those proceedings,the spouse or former spouse shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any adjournment, stay, suspension or postponement in pursuance of this section as he or she would have if those rights of occupation were not affected by the termination of the tenancy.

## **86 Periodic tenancy arising on termination of fixed term.**

- (1) Where a secure tenancy (“the first tenancy”) is a tenancy for a term certain and comes to an end—
  - (a) by effluxion of time, or
  - (b) by an order of the court under section 82(3) (termination in pursuance of provision for re-entry or forfeiture),a periodic tenancy of the same dwelling-house arises by virtue of this section, unless the tenant is granted another secure tenancy of the same dwelling-house (whether a tenancy for a term certain or a periodic tenancy) to begin on the coming to an end of the first tenancy.
- (2) Where a periodic tenancy arises by virtue of this section—
  - (a) the periods of the tenancy are the same as those for which rent was last payable under the first tenancy, and
  - (b) the parties and the terms of the tenancy are the same as those of the first tenancy at the end of it;except that the terms are confined to those which are compatible with a periodic tenancy and do not include any provision for re-entry or forfeiture.

*Succession on death of tenant*

**87 Persons qualified to succeed tenant.**

A person is qualified to succeed the tenant under a secure tenancy if he occupies the dwelling-house as his only or principal home at the time of the tenant's death and either—

- (a) he is the tenant's spouse, or
- (b) he is another member of the tenant's family and has resided with the tenant throughout the period of twelve months ending with the tenant's death;

unless, in either case, the tenant was himself a successor, as defined in section 88.

**88 Cases where the tenant is a successor.**

- (1) The tenant is himself a successor if—
  - (a) the tenancy vested in him by virtue of section 89 (succession to a periodic tenancy), or
  - (b) he was a joint tenant and has become the sole tenant, or
  - (c) the tenancy arose by virtue of section 86 (periodic tenancy arising on ending of term certain) and the first tenancy there mentioned was granted to another person or jointly to him and another person, or
  - (d) he became the tenant on the tenancy being assigned to him (but subject to subsections (2) and (3)), or
  - (e) he became the tenant on the tenancy being vested in him on the death of the previous tenant.
- (2) A tenant to whom the tenancy was assigned in pursuance of an order under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) is a successor only if the other party to the marriage was a successor.
- (3) A tenant to whom the tenancy was assigned by virtue of section 92 (assignments by way of exchange) is a successor only if he was a successor in relation to the tenancy which he himself assigned by virtue of that section.
- (4) Where within six months of the coming to an end of a secure tenancy which is a periodic tenancy ("the former tenancy") the tenant becomes a tenant under another secure tenancy which is a periodic tenancy, and—
  - (a) the tenant was a successor in relation to the former tenancy, and
  - (b) under the other tenancy either the dwelling-house or the landlord, or both, are the same as under the former tenancy,
 the tenant is also a successor in relation to the other tenancy unless the agreement creating that tenancy otherwise provides.

**89 Succession to periodic tenancy.**

- (1) This section applies where a secure tenant dies and the tenancy is a periodic tenancy.
- (2) Where there is a person qualified to succeed the tenant, the tenancy vests by virtue of this section in that person, or if there is more than one such person in the one to be preferred in accordance with the following rules—

- (a) the tenant's spouse is to be preferred to another member of the tenant's family;
  - (b) of two or more other members of the tenant's family such of them is to be preferred as may be agreed between them or as may, where there is no such agreement, be selected by the landlord.
- (3) Where there is no person qualified to succeed the tenant and the tenancy is vested or otherwise disposed of in the course of the administration of the tenant's estate, the tenancy ceases to be a secure tenancy unless the vesting or other disposal is in pursuance of an order made under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings).
- (4) A tenancy which ceases to be a secure tenancy by virtue of this section cannot subsequently become a secure tenancy.

## **90 Devolution of term certain.**

- (1) This section applies where a secure tenant dies and the tenancy is a tenancy for a term certain.
- (2) The tenancy remains a secure tenancy until—
- (a) it is vested or otherwise disposed of in the course of the administration of the tenant's estate, as mentioned in subsection (3), or
  - (b) it is known that when it is so vested or disposed of it will not be a secure tenancy.
- (3) The tenancy ceases to be a secure tenancy on being vested or otherwise disposed of in the course of administration of the tenant's estate, unless—
- (a) the vesting or other disposal is in pursuance of an order made under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings), or
  - (b) the vesting or other disposal is to a person qualified to succeed the tenant.
- (4) A tenancy which ceases to be a secure tenancy by virtue of this section cannot subsequently become a secure tenancy.

### *Assignment, lodgers and subletting*

## **91 Assignment in general prohibited.**

- (1) A secure tenancy which is—
- (a) a periodic tenancy, or
  - (b) a tenancy for a term certain granted on or after 5th November 1982,
- is not capable of being assigned except in the cases mentioned in subsection (3).
- (2) If a secure tenancy for a term certain granted before 5th November 1982 is assigned, then, except in the cases mentioned in subsection (3), it ceases to be a secure tenancy and cannot subsequently become a secure tenancy.
- (3) The exceptions are—
- (a) an assignment in accordance with section 92 (assignment by way of exchange);

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- (b) an assignment in pursuance of an order made under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
- (c) an assignment to a person who would be qualified to succeed the tenant if the tenant died immediately before the assignment.

## **92 Assignments by way of exchange.**

- (1) It is a term of every secure tenancy that the tenant may, with the written consent of the landlord, assign the tenancy to another secure tenant who satisfies the condition in subsection (2).
- (2) The condition is that the other secure tenant has the written consent of his landlord to an assignment of his tenancy either to the first-mentioned tenant or to another secure tenant who satisfies the condition in this subsection.
- (3) The consent required by virtue of this section shall not be withheld except on one or more of the grounds set out in Schedule 3, and if withheld otherwise than on one of those grounds shall be treated as given.
- (4) The landlord may not rely on any of the grounds set out in Schedule 3 unless he has, within 42 days of the tenant's application for the consent, served on the tenant a notice specifying the ground and giving particulars of it.
- (5) Where rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed, the consent required by virtue of this section may be given subject to a condition requiring the tenant to pay the outstanding rent, remedy the breach or perform the obligation.
- (6) Except as provided by subsection (5), a consent required by virtue of this section cannot be given subject to a condition, and a condition imposed otherwise than as so provided shall be disregarded.

## **93 Lodgers and subletting.**

- (1) It is a term of every secure tenancy that the tenant—
  - (a) may allow any persons to reside as lodgers in the dwelling-house, but
  - (b) will not, without the written consent of the landlord, sublet or part with possession of part of the dwelling-house.
- (2) If the tenant under a secure tenancy parts with the possession of the dwelling-house or sublets the whole of it (or sublets first part of it and then the remainder), the tenancy ceases to be a secure tenancy and cannot subsequently become a secure tenancy.

## **94 Consent to subletting.**

- (1) This section applies to the consent required by virtue of section 93(1)(b) (landlord's consent to subletting of part of dwelling-house).
- (2) Consent shall not be unreasonably withheld (and if unreasonably withheld shall be treated as given), and if a question arises whether the withholding of consent was unreasonable it is for the landlord to show that it was not.



- (3) In determining that question the following matters, if shown by the landlord, are among those to be taken into account—
  - (a) that the consent would lead to overcrowding of the dwelling-house within the meaning of Part X (overcrowding);
  - (b) that the landlord proposes to carry out works on the dwelling-house, or on the building of which it forms part, and that the proposed works will affect the accommodation likely to be used by the sub-tenant who would reside in the dwelling-house as a result of the consent.
- (4) Consent may be validly given notwithstanding that it follows, instead of preceding, the action requiring it.
- (5) Consent cannot be given subject to a condition (and it purporting to be given subject to a condition shall be treated as given unconditionally).
- (6) Where the tenant has applied in writing for consent, then—
  - (a) if the landlord refuses to give consent, it shall give the tenant a written statement of the reasons why consent was refused, and
  - (b) if the landlord neither gives nor refuses to give consent within a reasonable time, consent shall be taken to have been withheld.

## **95 Assignment or subletting where tenant condition not satisfied.**

- (1) This section applies to a tenancy which is not a secure tenancy but would be if the tenant condition referred to in section 81 (occupation by the tenant) were satisfied.
- (2) Sections 91 and 93(2) (restrictions on assignment or sub-letting of whole dwelling-house) apply to such a tenancy as they apply to a secure tenancy, except that—
  - (a) section 91(3)(b) and (c) (assignments excepted from restrictions) do not apply to such a tenancy for a term certain granted before 5th November 1982, and
  - (b) references to the tenancy ceasing to be secure shall be disregarded, without prejudice to the application of the remainder of the provisions in which those references occur.

### *Repairs and improvements*

## **96 Right to carry out repairs.**

- (1) The Secretary of State may by regulations make a scheme for entitling secure tenants, subject to and in accordance with the provisions of the scheme—
  - (a) to carry out to the dwelling-houses of which they are secure tenants repairs which their landlords are obliged by repairing covenants to carry out, and
  - (b) after carrying out the repairs, to recover from their landlords such sums as may be determined by or under the scheme.
- (2) The regulations may make such procedural, incidental, supplementary and transitional provision as may appear to the Secretary of State to be necessary or expedient, and may in particular—
  - (a) provide for questions arising under the scheme to be referred to and determined by the county court;

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- (b) provide that where a secure tenant makes application under the scheme his landlord's obligation under the repairing covenants shall cease to apply for such period and to such extent as may be determined by or under the scheme.
- (3) The regulations may make different provision with respect to different cases or descriptions of case, including different provision for different areas.
- (4) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section "repairing covenant", in relation to a dwelling-house, means a covenant, whether express or implied, obliging the landlord to keep in repair the dwelling-house or any part of the dwelling-house.

**97 Tenant's improvements require consent.**

- (1) It is a term of every secure tenancy that the tenant will not make any improvement without the written consent of the landlord.
- (2) In this Part "improvement" means any alteration in, or addition to, a dwelling-house, and includes—
  - (a) any addition to or alteration in landlord's fixtures and fittings,
  - (b) any addition or alteration connected with the provision of services to the dwelling-house,
  - (c) the erection of a wireless or television aerial, and
  - (d) the carrying out of external decoration.
- (3) The consent required by virtue of subsection (1) shall not be unreasonably withheld, and if unreasonably withheld shall be treated as given.
- (4) The provisions of this section have effect, in relation to secure tenancies, in place of section 19(2) of the Landlord and Tenant Act 1927 (general provisions as to covenants, &c. not to make improvements without consent).

**98 Provisions as to consents required by s. 97.**

- (1) If a question arises whether the withholding of a consent required by virtue of section 97 (landlord's consent to improvements) was unreasonable, it is for the landlord to show that it was not.
- (2) In determining that question the court shall, in particular, have regard to the extent to which the improvement would be likely—
  - (a) to make the dwelling-house, or any other premises, less safe for occupiers,
  - (b) to cause the landlord to incur expenditure which it would be unlikely to incur if the improvement were not made, or
  - (c) to reduce the price which the dwelling-house would fetch if sold on the open market or the rent which the landlord would be able to charge on letting the dwelling-house.
- (3) A consent required by virtue of section 97 may be validly given notwithstanding that it follows, instead of preceding, the action requiring it.
- (4) Where a tenant has applied in writing for a consent which is required by virtue of section 97—

- (a) the landlord shall if it refuses consent give the tenant a written statement of the reason why consent was refused, and
- (b) if the landlord neither gives nor refuses to give consent within a reasonable time, consent shall be taken to have been withheld.

## **99 Conditional consent to improvements.**

- (1) Consent required by virtue of section 97 (landlord's consent to improvements) may be given subject to conditions.
- (2) If the tenant has applied in writing for consent and the landlord gives consent subject to an unreasonable condition, consent shall be taken to have been unreasonably withheld.
- (3) If a question arises whether a condition was reasonable, it is for the landlord to show that it was.
- (4) A failure by a secure tenant to satisfy a reasonable condition imposed by his landlord in giving consent to an improvement which the tenant proposes to make, or has made, shall be treated for the purposes of this Part as a breach by the tenant of an obligation of his tenancy.

## **100 Power to reimburse cost of tenant's improvements.**

- (1) Where a secure tenant has made an improvement and—
  - (a) the work on the improvement was begun on or after 3rd October, 1980,
  - (b) the landlord, or a predecessor in title of the landlord, has given its written consent to the improvement or is treated as having given its consent, and
  - (c) the improvement has materially added to the price which the dwelling-house may be expected to fetch if sold on the open market, or the rent which the landlord may be expected to be able to charge on letting the dwelling-house,the landlord may, at or after the end of the tenancy, make to the tenant (or his personal representatives) such payment in respect of the improvement as the landlord considers to be appropriate.
- (2) The amount which a landlord may pay under this section in respect of an improvement shall not exceed the cost, or likely cost, of the improvement after deducting the amount of any improvement grant, intermediate grant, special grant or repairs grant under Part XV in respect of the improvement.
- (3) The power conferred by this section to make such payments as are mentioned in subsection (1) is in addition to any other power of the landlord to make such payments.

## **101 Rent not to be increased on account of tenant's improvements.**

- (1) This section applies where a person (the "improving tenant") who is or was the secure tenant of a dwelling-house has lawfully made an improvement and has borne the whole or part of its cost; and for the purposes of this section a person shall be treated as having borne any cost which he would have borne but for an improvement grant, intermediate grant, special grant or repairs grant under Part XV.
- (2) In determining, at any time whilst the improving tenant or his qualifying successor is a secure tenant of the dwelling-house, whether or to what extent to increase the rent, the landlord shall treat the improvement as justifying only such part of an increase

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which would otherwise be attributable to the improvement as corresponds to the part of the cost which was not borne by the tenant (and accordingly as not justifying an increase if he bore the whole cost).

- (3) The following are qualifying successors of an improving tenant—
- (a) a person in whom the tenancy vested under section 89 (succession to periodic tenancy) on the death of the tenant;
  - (b) a person to whom the tenancy was assigned by the tenant and who would have been qualified to succeed him if he had died immediately before the assignment,
  - (c) a person to whom the tenancy was assigned by the tenant in pursuance of an order made under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
  - (d) a spouse or former spouse of the tenant to whom the tenancy has been transferred by an order under paragraph 22 of Schedule 1 to the Matrimonial Homes Act 1983.
- (4) This section does not apply to an increase of rent attributable to rates.

*Variation of terms of tenancy*

**102 Variation of terms of secure tenancy.**

- (1) The terms of a secure tenancy may be varied in the following ways, and not otherwise—
- (a) by agreement between the landlord and the tenant;
  - (b) to the extent that the variation relates to rent or to payments in respect of rates or services, by the landlord or the tenant in accordance with a provision in the lease or agreement creating the tenancy, or in an agreement varying it;
  - (c) in accordance with section 103 (notice of variation of periodic tenancy).
- (2) References in this section and section 103 to variation include addition and deletion; and for the purposes of this section the conversion of a monthly tenancy into a weekly tenancy, or a weekly tenancy into a monthly tenancy, is a variation of a term of the tenancy, but a variation of the premises let under a tenancy is not.
- (3) This section and section 103 do not apply to a term of a tenancy which—
- (a) is implied by an enactment, or
  - (b) may be varied under section 93 of the Rent Act 1977 (housing association and other tenancies: increase of rent without notice to quit).
- (4) This section and section 103 apply in relation to the terms of a periodic tenancy arising by virtue of section 86 (periodic tenancy arising on termination of a fixed term) as they would have applied to the terms of the first tenancy mentioned in that section had that tenancy been a periodic tenancy.

**103 Notice of variation of periodic tenancy.**

- (1) The terms of a secure tenancy which is a periodic tenancy may be varied by the landlord by a notice of variation served on the tenant.

- (2) Before serving a notice of variation on the tenant the landlord shall serve on him a preliminary notice—
- (a) informing the tenant of the landlord's intention to serve a notice of variation,
  - (b) specifying the proposed variation and its effect, and
  - (c) inviting the tenant to comment on the proposed variation within such time, specified in the notice, as the landlord considers reasonable;
- and the landlord shall consider any comments made by the tenant within the specified time.
- (3) Subsection (2) does not apply to a variation of the rent, or of payments in respect of services or facilities provided by the landlord or of payments in respect of rates.
- (4) The notice of variation shall specify—
- (a) the variation effected by it, and
  - (b) the date on which it takes effect;
- and the period between the date on which it is served and the date on which it takes effect must be at least four weeks or the rental period, whichever is the longer.
- (5) The notice of variation, when served, shall be accompanied by such information as the landlord considers necessary to inform the tenant of the nature and effect of the variation.
- (6) If after the service of a notice of variation the tenant, before the date on which the variation is to take effect, gives a valid notice to quit, the notice of variation shall not take effect unless the tenant, with the written agreement of the landlord, withdraws his notice to quit before that date.

*Provision of information and consultation*

**104 Provision of information about tenancies.**

- (1) Every body which lets dwelling-houses under secure tenancies shall from time to time publish information about its secure tenancies, in such form as it considers best suited to explain in simple terms, and so far as it considers it appropriate, the effect of—
- (a) the express terms of its secure tenancies,
  - (b) the provisions of this Part and Part V (the right to buy), and
  - (c) the provisions of sections 11 to 16 of the Landlord and Tenant Act 1985 (landlord's repairing obligations),
- and shall ensure that so far as is reasonably practicable the information so published is kept up to date.
- (2) The landlord under a secure tenancy shall supply the tenant with—
- (a) a copy of the information for secure tenants published by it under subsection (1), and
  - (b) a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement (if any) nor implied by law;
- and the statement required by paragraph (b) shall be supplied on the grant of the tenancy or as soon as practicable afterwards.

## **105 Consultation on matters of housing management.**

- (1) A landlord authority shall maintain such arrangements as it considers appropriate to enable those of its secure tenants who are likely to be substantially affected by a matter of housing management to which this section applies—
  - (a) to be informed of the authority's proposals in respect of the matter, and
  - (b) to make their views known to the authority within a specified period;and the authority shall, before making any decision on the matter, consider any representations made to it in accordance with those arrangements.
- (2) For the purposes of this section, a matter is one of housing management if, in the opinion of the landlord authority, it relates to—
  - (a) the management, maintenance, improvement or demolition of dwelling-houses let by the authority under secure tenancies, or
  - (b) the provision of services or amenities in connection with such dwelling-houses;but not so far as it relates to the rent payable under a secure tenancy or to charges for services or facilities provided by the authority.
- (3) This section applies to matters of housing management which, in the opinion of the landlord authority, represent—
  - (a) a new programme of maintenance, improvement or demolition, or
  - (b) a change in the practice or policy of the authority,and are likely substantially to affect either its secure tenants as a whole or a group of them who form a distinct social group or occupy dwelling-houses which constitute a distinct class (whether by reference to the kind of dwelling-house, or the housing estate or other larger area in which they are situated).
- (4) In the case of a landlord authority which is a local housing authority, the reference in subsection (2) to the provision of services or amenities is a reference only to the provision of services or amenities by the authority acting in its capacity as landlord of the dwelling-houses concerned.
- (5) A landlord authority shall publish details of the arrangements which it makes under this section, and a copy of the documents published under this subsection shall—
  - (a) be made available at the authority's principal office for inspection at all reasonable hours, without charge, by members of the public, and
  - (b) be given, on payment of a reasonable fee, to any member of the public who asks for one.
- (6) A landlord authority which is a registered housing association shall, instead of complying with paragraph (a) of subsection (5), send a copy of any document published under that subsection—
  - (a) to the Housing Corporation, and
  - (b) to the council of any district or London borough in which there are dwelling-houses let by the association under secure tenancies;and a council to whom a copy is sent under this subsection shall make it available at its principal office for inspection at all reasonable hours, without charge, by members of the public.

**106 Information about housing allocation.**

- (1) A landlord authority shall publish a summary of its rules—
  - (a) for determining priority as between applicants in the allocation of its housing accommodation, and
  - (b) governing cases where secure tenants wish to move (whether or not by way of exchange of dwelling-houses) to other dwelling-houses let under secure tenancies by that authority or another body.
- (2) A landlord authority shall—
  - (a) maintain a set of the rules referred to in subsection (1) and of the rules which it has laid down governing the procedure to be followed in allocating its housing accommodation, and
  - (b) make them available at its principal office for inspection at all reasonable hours, without charge, by members of the public.
- (3) A landlord authority which is a registered housing association shall, instead of complying with paragraph (b) of sub-section (2), send a set of the rules referred to in paragraph (a) of that subsection—
  - (a) to the Housing Corporation, and
  - (b) to the council of any district or London borough in which there are dwelling-houses let or to be let by the association under secure tenancies;and a council to whom a set of rules is sent under this subsection shall make it available at its principal office for inspection at all reasonable hours, without charge, by members of the public.
- (4) A copy of the summary published under subsection (1) shall be given without charge, and a copy of the set of rules maintained under subsection (2) shall be given on payment of a reasonable fee, to any member of the public who asks for one.
- (5) At the request of a person who has applied to it for housing accommodation, a landlord authority shall make available to him, at all reasonable times and without charge, details of the particulars which he has given to the authority about himself and his family and which the authority has recorded as being relevant to his application for accommodation.

*Miscellaneous***107 Contributions towards costs of transfers and exchanges.**

- (1) The Secretary of State may with the consent of the Treasury make grants or loans towards the cost of arrangements for facilitating moves to and from homes by which—
  - (a) a secure tenant becomes, at his request, the secure tenant of a different landlord, or
  - (b) each of two or more tenants of dwelling-houses, one at least of which is let under a secure tenancy, becomes the tenant of the other or one of the others.
- (2) The grants or loans may be made subject to such conditions as the Secretary of State may determine, and may be made so as to be repayable, or as the case may be repayable earlier, if there is a breach of such a condition.

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## **108 Heating charges.**

- (1) This section applies to secure tenants of dwelling-houses to which a heating authority supply heat produced at a heating installation.
- (2) The Secretary of State may by regulations require heating authorities to adopt such methods for determining heating charges payable by such tenants as will secure that the proportion of heating costs borne by each of those tenants is no greater than is reasonable.
- (3) The Secretary of State may by regulations make provision for entitling such tenants, subject to and in accordance with the regulations, to require the heating authority—
  - (a) to give them, in such form as may be prescribed by the regulations, such information as to heating charges and heating costs as may be so prescribed, and
  - (b) where such information has been given, to afford them reasonable facilities for inspecting the accounts, receipts and other documents supporting the information and for taking copies or extracts from them.
- (4) Regulations under this section—
  - (a) May make different provision with respect to different cases or descriptions of case, including different provision for different areas;
  - (b) may make such procedural, incidental, supplementary and transitional provision as appears to the Secretary of State to be necessary or expedient, and may in particular provide for any question arising under the regulations to be referred to and determined by the county court; and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section—
  - (a) “heating authority” means a housing authority who operate a heating installation and supply to premises heat produced at the installation;
  - (b) “heating installation” means a generating station or other installation for producing heat;
  - (c) references to heat produced at an installation include steam produced from, and air and water heated by, heat so produced;
  - (d) “heating charge” means an amount payable to a heating authority in respect of heat produced at a heating installation and supplied to premises, including in the case of heat supplied to premises let by the authority such an amount payable as part of the rent;
  - (e) “heating costs” means expenses incurred by a heating authority in operating a heating installation.

## **109 Provisions not applying to tenancies of co-operative housing associations.**

Sections 91 to 108 (assignment and subletting, repairs and improvements, variation of terms, provision of information and consultation, contributions to costs of transfers and heating charges) do not apply to a tenancy when the interest of the landlord belongs to a co-operative housing association.



### *Supplementary provisions*

#### **110 Jurisdiction of county court.**

- (1) A county court has jurisdiction to determine questions arising under this Part and to entertain proceedings brought under this Part and claims, for whatever amount, in connection with a secure tenancy.
- (2) That jurisdiction includes jurisdiction to entertain proceedings on the following questions—
  - (a) whether a consent required by section 92 (assignment by way of exchange) was withheld otherwise than on one or more of the grounds set out in Schedule 3,
  - (b) whether a consent required by section 93(1)(b) or 97(1) (landlord's consent to subletting of part of dwelling-house or to carrying out of improvements) was withheld or unreasonably withheld, or
  - (c) whether a statement supplied in pursuance of section 104(2)(b) (written statement of certain terms of tenancy) is accurate,notwithstanding that no other relief is sought than a declaration.
- (3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.

#### **111 County court rules and directions.**

- (1) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to—
  - (a) section 85 (extended discretion of court in certain proceedings for possession), and
  - (b) section 110 (jurisdiction of county court to determine questions arising under this Part).
- (2) The rules and directions may provide—
  - (a) for the exercise by a registrar of a county court of any jurisdiction exercisable under the provisions mentioned in subsection (1), and
  - (b) for the conduct of proceedings in private.
- (3) The power to make rules is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **112 Meaning of “dwelling-house”.**

- (1) For the purposes of this Part a dwelling-house may be a house or a part of a house.
- (2) Land let together with a dwelling-house shall be treated for the purposes of this Part as part of the dwelling-house unless the land is agricultural land (as defined in section 26(3)(a) of the General Rate Act 1967) exceeding two acres.

#### **113 Members of a person's family.**

- (1) A person is a member of another's family within the meaning of this Part if—

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- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
  - (b) he is that person's parent, grandparent, child, grand-child, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purpose of subsection (1)(b)—
- (a) a relationship by marriage shall be treated as a relationship by blood,
  - (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
  - (c) the stepchild of a person shall be treated as his child, and
  - (d) an illegitimate child shall be treated as the legitimate child of his mother and reputed father.

#### **114 Meaning of “landlord authority”.**

- (1) In this Part “landlord authority” means—
- a local housing authority,
  - a registered housing association other than a co-operative housing association,
  - a housing trust which is a charity,
  - a development corporation,
  - an urban development corporation, or
  - the Development Board for Rural Wales,
- other than an authority in respect of which an exemption certificate has been issued.
- (2) The Secretary of State may, on an application duly made by the authority concerned, issue an exemption certificate to—
- a development corporation,
  - an urban development corporation, or
  - the Development Board for Rural Wales,
- if he is satisfied that it has transferred, or otherwise disposed of, at least three-quarters of the dwellings which have at any time before the making of the application been vested in it.
- (3) The application shall be in such form and shall be accompanied by such information as the Secretary of State may, either generally or in relation to a particular case, direct.

#### **115 Meaning of “long tenancy”.**

- (1) The following are long tenancies for the purposes of this Part, subject to subsection (2)
- (a) a tenancy granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture;
  - (b) a tenancy for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a tenancy by sub-demise from one which is not a long tenancy;
  - (c) any tenancy granted in pursuance of Part V (the right to buy).
- (2) A tenancy granted so as to become terminable by notice after a death is not a long tenancy for the purposes of this Part, unless—

- (a) it is granted by a housing association which at the time of the grant is registered,
- (b) it is granted at a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, and
- (c) at the time it is granted it complies with the requirements of the regulations then in force under section 140(4)(b) of the Housing Act 1980 (conditions for exclusion of shared ownership leases from Part I of the Leasehold Reform Act 1967) or, in the case of a tenancy granted before any such regulations were brought into force, with the first such regulations to be in force.

## 116 Minor definitions.

In this Part—

“common parts”, in relation to a dwelling-house let under a tenancy, means any part of a building comprising the dwelling-house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other dwelling-houses let by the landlord;

“housing purposes” means the purposes for which dwelling-houses are held by local housing authorities under Part II (provision of housing) or purposes corresponding to those purposes;

“rental period” means a period in respect of which a payment of rent falls to be made;

“term”, in relation to a secure tenancy, includes a condition of the tenancy.

## 117 Index of defined expressions: Part IV.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression in the same section or paragraph):—

cemetery	section 622
charity	section 622
common parts (in relation to a dwelling-house let under a tenancy)	section 116
co-operative housing association	section 5(2)
development corporation	section 4(c)
dwelling-house	section 112
family (member of)	section 113
housing association	section 5(1)
housing authority	section 4(a)
housing purposes	section 116
housing trust	section 6
improvement	section 97(2)
landlord authority	section 114

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local authority	section 4(e)
local housing authority	section 1, 2(2)
long tenancy	section 115
new town corporation	section 4(b)
qualified to succeed (on the death of a secure tenant)	section 87
registered and unregistered (in relation to a housing association)	section 5(4)
rental period	section 116
secure tenancy	section 79
term (in relation to a secure tenancy)	section 116
urban development corporation	section 4(d)
variation (of the terms of a secure tenancy)	section 102(2)

## PART V

### THE RIGHT TO BUY

#### *The right to buy*

#### **118 The right to buy.**

- (1) A secure tenant has the right to buy, that is to say, the right, in the circumstances and subject to the conditions and exceptions stated in the following provisions of this Part—
- (a) if the dwelling-house is a house and the landlord owns the freehold, to acquire the freehold of the dwelling-house;
  - (b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), to be granted a lease of the dwelling-house.
- (2) Where a secure tenancy is a joint tenancy then, whether or not each of the joint tenants occupies the dwelling-house as his only or principal home, the right to buy belongs jointly to all of them or to such one or more of them as may be agreed between them; but such an agreement is not valid unless the person or at least one of the persons to whom the right to buy is to belong occupies the dwelling-house as his only or principal home.

#### **119 Qualifying period for right to buy.**

- (1) The right to buy does not arise unless the period which, in accordance with Schedule 4, is to be taken into account for the purposes of this section is at least two years.
- (2) Where the secure tenancy is a joint tenancy the condition in subsection (1) need be satisfied with respect to one only of the joint tenants.

**120 Exceptions to the right to buy.**

The right to buy does not arise in the cases specified in Schedule 5 (exceptions to the right to buy).

**121 Circumstances in which the right to buy cannot be exercised.**

- (1) The right to buy cannot be exercised if the tenant is obliged to give up possession of the dwelling-house in pursuance of an order of the court or will be so obliged at a date specified in the order.
- (2) The right to buy cannot be exercised if the person, or one of the persons, to whom the right to buy belongs—
  - (a) has a bankruptcy petition pending against him,
  - (b) has a receiving order in force against him,
  - (c) is an undischarged bankrupt, or
  - (d) has made a composition or arrangement with his creditors the terms of which remain to be fulfilled.

*Claim to exercise right to buy*

**122 Tenant's notice claiming to exercise right to buy.**

- (1) A secure tenant claims to exercise the right to buy by written notice to that effect served on the landlord.
- (2) In this Part “the relevant time”, in relation to an exercise of the right to buy, means the date on which that notice is served.
- (3) The notice may be withdrawn at any time by notice in writing served on the landlord.

**123 Claim to share right to buy with members of family.**

- (1) A secure tenant may in his notice under section 122 require that not more than three members of his family who are not joint tenants but occupy the dwelling-house as their only or principal home should share the right to buy with him.
- (2) He may validly do so in the case of any such member only if—
  - (a) that member is his spouse or has been residing with him throughout the period of twelve months ending with the giving of the notice, or
  - (b) the landlord consents.
- (3) Where by such a notice any members of the tenant's family are validly required to share the right to buy with the tenant, the right to buy belongs to the tenant and those members jointly and he and they shall be treated for the purposes of this Part as joint tenants.

**124 Landlord's notice admitting or denying right to buy.**

- (1) Where a notice under section 122 (notice claiming to exercise right to buy) has been served by the tenant, the landlord shall, unless the notice is withdrawn, serve on the tenant within the period specified in subsection (2) a written notice either—

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- (a) admitting his right, or
  - (b) denying it and stating the reasons why, in the opinion of the landlord, the tenant does not have the right to buy.
- (2) The period for serving a notice under this section is four weeks where the requirement of section 119 (qualifying period for the right to buy) is satisfied by a period or periods during which the landlord was the landlord on which the tenant's notice under section 122 was served, and eight weeks in any other case.
- (3) A landlord's notice under this section shall inform the tenant of any application for a determination under paragraph 11 of Schedule 5 (determination that right to buy not to be capable of exercise) and, in the case of a notice admitting the tenant's right to buy, is without prejudice to any determination made on such an application.

**125 Landlord's notice of purchase price and other matters.**

- (1) Where a secure tenant has claimed to exercise the right to buy and that right has been established (whether by the landlord's admission or otherwise), the landlord shall—
- (a) within eight weeks where the right is that mentioned in section 118(1)(a) (right to acquire freehold), and
  - (b) within twelve weeks where the right is that mentioned in section 118(1)(b) (right to acquire leasehold interest).
- serve on the tenant a notice complying with this section.
- (2) The notice shall describe the dwelling-house, shall state the price at which, in the opinion of the landlord, the tenant is entitled to have the freehold conveyed or, as the case may be, the lease granted to him and shall, for the purpose of showing how the price has been arrived at, state—
- (a) the value at the relevant time,
  - (b) the improvements disregarded in pursuance of section 127 (improvements to be disregarded in determining value), and
  - (c) the discount to which the tenant is entitled, stating the period to be taken into account under section 129 (discount) and, where applicable, the amount mentioned in section 130(1) (reduction for previous discount) or section 131(1) or (2) (limits on amount of discount).
- (3) The notice shall state the provisions which, in the opinion of the landlord, should be contained in the conveyance or grant.
- (4) Where the notice states provisions which would enable the landlord to recover from the tenant service charges (within the meaning of section 18 of the Landlord and Tenant Act 1985 or section 46 of this Act), the notice shall also state—
- (a) the landlord's estimate of the average annual amount (at current prices) which would be payable in respect of each head of charge, and
  - (b) the aggregate of those estimated amounts.
- (5) The notice shall also inform the tenant of—
- (a) his right under section 128 to have the value of the dwelling-house at the relevant time determined or redetermined by the district valuer,
  - (b) the right to a mortgage and the effect of sections 134 and 135 (procedure for claiming to exercise that right).

- (c) the effect of sections 140, 141(1), (2) and (4) and 142(1) and (2) (landlord's notices to complete, effect of failure to comply and right to defer completion), and
  - (d) the effect of the provisions of this Part relating to the right to be granted a shared ownership lease;
- and the notice shall be accompanied by a form for use by the tenant in claiming to exercise the right to a mortgage.

### *Purchase price*

#### **126 Purchase price.**

- (1) The price payable for a dwelling-house on a conveyance or grant in pursuance of this Part is—
  - (a) the amount which under section 127 is to be taken as its value at the relevant time, less
  - (b) the discount to which the purchaser is entitled under this Part.
- (2) References in this Part to the purchase price include references to the consideration for the grant of a lease.

#### **127 Value of dwelling-house.**

- (1) The value of a dwelling-house at the relevant time shall be taken to be the price which at that time it would realise if sold on the open market by a willing vendor—
  - (a) on the assumptions stated for a conveyance in subsection (2) and for a grant in subsection (3), and
  - (b) disregarding any improvements made by any of the persons specified in subsection (4) and any failure by any of those persons to keep the dwelling-house in good internal repair.
- (2) For a conveyance the assumptions are—
  - (a) that the vendor was selling for an estate in fee simple with vacant possession,
  - (b) that neither the tenant nor a member of his family residing with him wanted to buy, and
  - (c) that the dwelling-house was to be conveyed with the same rights and subject to the same burdens as it would be in pursuance of this Part.
- (3) For the grant of a lease the assumptions are—
  - (a) that the vendor was granting a lease with vacant possession for the appropriate term defined in paragraph 12 of Schedule 6 (but subject to sub-paragraph (3) of that paragraph).
  - (b) that neither the tenant nor a member of his family residing with him wanted to take the lease,
  - (c) that the ground rent would not exceed £10 per annum, and
  - (d) that the grant was to be made with the same rights and subject to the same burdens as it would be in pursuance of this Part.
- (4) The persons referred to in subsection (1)(b) are—
  - (a) the secure tenant,
  - (b) any person who under the same tenancy was a secure tenant before him, and

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- (c) any member of his family who immediately before the secure tenancy was granted, was a secure tenant of the same dwelling-house under another tenancy,

but do not include, in a case where the secure tenant's tenancy has at any time been assigned by virtue of section 92 (assignments by way of exchange), a person who under that tenancy was a secure tenant before the assignment.

## **128 Determination of value by district valuer.**

- (1) Any question arising under this Part as to the value of a dwelling-house at the relevant time shall be determined by the district valuer in accordance with this section.
- (2) A tenant may require that value to be determined, or as the case may be re-determined, by a notice in writing served on the landlord not later than three months after the service on him of the notice under section 125 (landlord's notice of purchase price and other matters) or, if proceedings are then pending between the landlord and the tenant for the determination of any other question arising under this Part, within three months of the final determination of the proceedings.
- (3) If such proceedings are begun after a previous determination under this section—
  - (a) the tenant may, by notice in writing served on the landlord within four weeks of the final determination of the proceedings, require the value of the dwelling-house at the relevant time to be re-determined, and
  - (b) the landlord may at any time within those four weeks, whether or not a notice under paragraph (a) is served, require the district valuer to re-determine that value;

and where the landlord requires a re-determination to be made in pursuance of this subsection, it shall serve on the tenant a notice stating that the requirement is being or has been made.
- (4) Before making a determination or re-determination in pursuance of this section, the district valuer shall consider any representation made to him by the landlord or the tenant within four weeks from the service of the tenant's notice under this section or, as the case may be, from the service of the landlord's notice under subsection (3).
- (5) As soon as practicable after a determination or re-determination has been made in pursuance of this section, the landlord shall serve on the tenant a notice stating the effect of the determination or re-determination and the matters mentioned in section 125(2) and (3) (terms for exercise of right to buy).
- (6) A notice under subsection (5) shall inform the tenant of the right to a mortgage and of the effect of sections 134 and 135 (procedure for claiming to exercise that right) and shall be accompanied by a form for use by the tenant in claiming to exercise that right.

## **129 Discount.**

- (1) Subject to the following provisions of this Part, a person exercising the right to buy is entitled to a discount equal to the following percentage of the price before discount—
  - (a) if the period which, in accordance with Schedule 4, is to be taken into account for the purposes of discount is less than three years, 32 per cent.;
  - (b) if that period is three years or more, 32 per cent. plus one per cent. for each complete year by which that period exceeds two years.



- (2) The discount shall not exceed 60 per cent.
- (3) Where joint tenants exercise the right to buy, Schedule 4 shall be construed as if for the secure tenant there were substituted that one of the joint tenants whose substitution will produce the largest discount.

### **130 Reduction of discount where previous discount given.**

- (1) There shall be deducted from the discount an amount equal to any previous discount qualifying, or the aggregate of previous discounts qualifying, under the provisions of this section.
- (2) A “previous discount” means a discount given before the relevant time—
  - (a) on conveyance of the freehold, or a grant or assignment of a long lease, of a dwelling-house by a person within paragraph 7 of Schedule 4 (public sector landlords) or, in such circumstances as may be prescribed by order of the Secretary of State, by a person so prescribed, or
  - (b) in pursuance of the provision required by paragraph 1 of Schedule 8 (terms of shared ownership lease: right to acquire additional shares), or any other provision to the like effect.
- (3) A previous discount qualifies for the purposes of this section if it was given—
  - (a) to the person or one of the persons exercising the right to buy, or
  - (b) to the spouse of that person or one of those persons (if they are living together at the relevant time), or
  - (c) to a deceased spouse of that person or one of those persons (if they were living together at the time of the death);and where a previous discount was given to two or more persons jointly, this section has effect as if each of them had been given an equal proportion of the discount.
- (4) Where the whole or part of a previous discount has been recovered by the person by whom it was given (or a successor in title of his)—
  - (a) by the receipt of a payment determined by reference to the discount, or
  - (b) by a reduction so determined of any consideration given by that person (or a successor in title of his), or
  - (c) in any other way,then, so much of the discount as has been so recovered shall be disregarded for the purposes of this section.
- (5) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, 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.
- (6) In this section “dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to the dwelling-house or usually enjoyed with it.

### **131 Limits on amount of discount.**

- (1) Except where the Secretary of State so determines, the discount shall not reduce the price below the amount which, in accordance with a determination made by him, is

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to be taken as representing so much of the costs incurred in respect of the dwelling-house as, in accordance with the determination—

- (a) is to be treated as incurred after 31st March 1974 (or such later date as may be specified in an order made by the Secretary of State), and
  - (b) is to be treated as relevant for the purposes of this sub-section;
- and if the price before discount is below that amount, there shall be no discount.
- (2) The discount shall not in any case reduce the price by more than such sum as the Secretary of State may by order prescribe.
  - (3) An order or determination under this section may make different provision for different cases or descriptions of case, including different provision for different areas.
  - (4) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### *The right to a mortgage*

#### **132 The right to a mortgage.**

- (1) A secure tenant who has the right to buy has the right, subject to the following provisions of this Part—
  - (a) to leave the whole or part of the aggregate amount mentioned in section 133(1) outstanding on the security of a first mortgage of the dwelling-house, or
  - (b) if the landlord is a housing association, to have the whole or part of that amount advanced to him on that security by the Housing Corporation;
 and in this Act that right is referred to as “the right to a mortgage.”
- (2) Where the right to buy belongs jointly to two or more persons, the right to a mortgage also belongs to them jointly.

#### **133 The amount to be secured.**

- (1) The amount which a secure tenant exercising the right to a mortgage is entitled to leave outstanding, or have advanced to him, on the security of the dwelling-house is, subject to the limit imposed by this section, the aggregate of—
  - (a) the purchase price,
  - (b) so much of the costs incurred by the landlord or the Housing Corporation as is chargeable to the tenant under section 178(2) (costs), and
  - (c) any costs incurred by the tenant and defrayed on his behalf by the landlord or the Housing Corporation.
- (2) The limit is that the amount which the tenant is entitled to leave outstanding or have advanced to him on the security of the dwelling-house may not exceed—
  - (a) where the right to a mortgage belongs to one person, the amount to be taken into account, in accordance with regulations under this section, as his available annual income multiplied by such factor as, under the regulations, is appropriate to it;
  - (b) where the right to a mortgage belongs to more than one person, the aggregate of the amounts to be taken into account in accordance with the regulations as the available annual income of each of them, after multiplying each of those amounts by the factor appropriate to it under the regulations.

- (3) The Secretary of State may by regulations make provision for calculating the amount which is to be taken into account under this section as a person's available annual income and for specifying a factor appropriate to it; and the regulations—
  - (a) may provide for arriving at a person's available annual income by deducting from the sums taken into account as his annual income sums related to his needs and commitments, and may exclude sums from those to be taken into account as a person's annual income, and
  - (b) may specify different amounts and different factors for different circumstances.
- (4) Where the amount which a secure tenant is entitled to leave outstanding on the security of the dwelling-house is reduced by the limit imposed by this section, the landlord may, if it thinks fit and the tenant agrees, treat him as entitled to leave outstanding on that security such amount exceeding the limit, but not exceeding the aggregate mentioned in subsection (1), as the landlord may determine.
- (5) References in this Part to a secure tenant being entitled, or treated as entitled, to a "full mortgage" are to his being entitled, or treated as entitled, to leave outstanding or have advanced to him on the security of the dwelling-house an amount equal to the aggregate mentioned in subsection (1).
- (6) Regulations under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, 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.

#### **134 Tenant's notice claiming to exercise right to a mortgage.**

- (1) A secure tenant cannot exercise his right to a mortgage unless he claims to exercise it by notice in writing served on the landlord, or if the landlord is a housing association, on the Housing Corporation.
- (2) The notice must be served within the period of three months beginning with the service on the tenant of—
  - (a) where he exercises his right under section 128 (determination of value by district valuer), the notice under subsection (5) of that section (further notice by landlord after determination), or
  - (b) where he does not exercise that right, the notice under section 125 (landlord's notice of purchase price and other matters),or within that period as extended under the following provisions.
- (3) Where there are reasonable grounds for doing so, the landlord or, as the case may be, the Housing Corporation shall by notice in writing served on the tenant extend (or further extend) the period within which the tenant's notice claiming to exercise his right to a mortgage must be served.
- (4) If in such a case the landlord or Housing Corporation fails to do so, the county court may by order extend or further extend that period until such date as may be specified in the order.

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### **135 Landlord’s notice of amount and terms of mortgage.**

- (1) As soon as practicable after the service on it of a notice under section 134, the landlord or Housing Corporation shall serve on the tenant a notice in writing stating—
  - (a) the amount which, in the opinion of the landlord or Housing Corporation, the tenant is entitled to leave outstanding or have advanced on the security of the dwelling-house,
  - (b) how that amount has been arrived at, and
  - (c) the provisions which, in the opinion of the landlord or Housing Corporation, should be contained in the deed by which the mortgage is to be effected.
- (2) The notice shall be accompanied by a form for use by the tenant in claiming, in accordance with section 142(1), to be entitled to defer completion and shall also inform the tenant of the effect of subsection (4) of that section (right to serve further notice claiming mortgage).
- (3) Where, in the opinion of the landlord or Housing Corporation, the tenant is not entitled to a full mortgage, the notice shall also inform the tenant of the effect of the provisions of this Part relating to the right to be granted a shared ownership lease and shall be accompanied by a form for use by the tenant in claiming to exercise that right in accordance with section 144(1).
- (4) The Housing Corporation shall send to the landlord a copy of any notice served by it on the tenant under this section.

*Change of tenant or landlord after service of notice claiming right to buy*

### **136 Change of secure tenant after notice claiming right to buy.**

- (1) Where, after a secure tenant (“the former tenant”) has given a notice claiming the right to buy, another person (“the new tenant”)—
  - (a) becomes the secure tenant under the same secure tenancy, otherwise than on an assignment made by virtue of section 92 (assignments by way of exchange), or
  - (b) becomes the secure tenant under a periodic tenancy arising by virtue of section 86 (periodic tenancy arising on termination of fixed term) on the coming to an end of the secure tenancy,the new tenant shall be in the same position as if the notice had been given by him and he had been the secure tenant at the time it was given.
- (2) If a notice under section 125 (landlord’s notice of purchase price and other matters has been served on the former tenant, the landlord shall serve on the new tenant a further form for his use in claiming to exercise the right to a mortgage.
- (3) The new tenant may then serve a notice under section 134 (tenant’s notice claiming to exercise right to a mortgage) within the period of three months beginning with the service on him of that form or within that period as extended under the following provisions.
- (4) Where there are reasonable grounds for doing so, the landlord or, as the case may be, the Housing Corporation shall by notice in writing served on the new tenant extend (or further extend) the period within which his notice claiming to exercise the right to a mortgage may be served.

- (5) If in such a case the landlord or Housing Corporation fails to do so, the county court may by order extend or further extend that period until such date as may be specified in the order.
- (6) The preceding provisions of this section do not confer any right on a person required in pursuance of section 123 (claim to share right to buy with members of family) to share the right to buy, unless he could have been validly so required had the notice claiming to exercise the right to buy been given by the new tenant.
- (7) The preceding provisions of this section apply with the necessary modifications if there is a further change in the person who is the secure tenant.

**137 Change of landlord after notice claiming right to buy or right to a mortgage.**

Where the interest of the landlord in the dwelling-house passes from the landlord to another body after a secure tenant has given a notice claiming to exercise the right to buy or the right to a mortgage, all parties shall be in the same position as if the other body had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.

*Completion of purchase in pursuance of right to buy*

**138 Duty of landlord to convey freehold or grant lease.**

- (1) Where a secure tenant has claimed to exercise the right to buy and that right has been established, then, as soon as all matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house have been agreed or determined, the landlord shall make to the tenant—
  - (a) if the dwelling-house is a house and the landlord owns the freehold, a grant of the dwelling-house for an estate in fee simple absolute, or
  - (b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), a grant of a lease of the dwelling-house,in accordance with the following provisions of this Part.
- (2) If the tenant has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, the landlord is not bound to comply with subsection (1) while the whole or part of that payment remains outstanding.
- (3) The duty imposed on the landlord by subsection (1) is enforceable by injunction.

**139 Terms and effect of conveyance or grant and mortgage.**

- (1) A conveyance of the freehold executed in pursuance of the right to buy shall conform with Parts I and II of Schedule 6; a grant of a lease so executed shall conform with Parts I and III of that Schedule; and Part IV of that Schedule has effect in relation to certain charges.
- (2) The secure tenancy comes to an end on the grant to the tenant of an estate in fee simple, or of a lease, in pursuance of the provisions of this Part relating to the right to buy;

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and if there is then a subtenancy section 139 of the Law of Property Act 1925 (effect of extinguishment of reversion) applies as on a merger or surrender.

- (3) The deed by which a mortgage is effected in pursuance of the right to a mortgage shall, unless otherwise agreed between the parties, conform with the provisions of Schedule 7.

**140 Landlord’s first notice to complete.**

- (1) The landlord may, subject to the provisions of this section, serve on the tenant at any time a written notice requiring him—
- (a) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice, or
  - (b) if any relevant matters are outstanding, to serve on the landlord within that period a written notice to that effect specifying the matters,
- and informing the tenant of the effect of this section and of section 141(1), (2) and (4) landlord’s second notice to complete).
- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.
- (3) A notice under this section shall not be served earlier than whichever of the following is applicable—
- (a) if the tenant has not claimed to exercise the right to a mortgage, nine months after the end of the period within which a notice claiming it could have been served by him;
  - (b) if he has claimed the right to a mortgage, but is not entitled to defer completion, nine months after the service of the notice under section 135 (landlord’s notice of terms and amount of mortgage);
  - (c) if he is entitled to defer completion, two years after the service of his notice under section 122 claiming to exercise the right to buy or, if later, nine months after the service of the notice under section 135 (landlord’s notice of terms and amount of mortgage).
- (4) A notice under this section shall not be served if—
- (a) a requirement for the determination or re-determination of the value of the dwelling-house by the district valuer has not been complied with,
  - (b) proceedings for the determination of any other relevant matter have not been disposed of, or
  - (c) any relevant matter stated to be outstanding in a written notice served on the landlord by the tenant has not been agreed in writing or determined.
- (5) In this section “relevant matters” means matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house.

**141 Landlord’s second notice to complete.**

- (1) If the tenant does not comply with a notice under section 140 (landlord’s first notice to complete), the landlord may serve on him a further written notice—
- (a) requiring him to complete the transaction within a period stated in the notice, and
  - (b) informing him of the effect of this section in the event of his failing to comply.

- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.
- (3) At any time before the end of that period (or that period as previously extended) the landlord may by a written notice served on the tenant extend it (or further extend it).
- (4) If the tenant does not comply with a notice under this section the notice claiming to exercise the right to buy shall be deemed to be withdrawn at the end of that period (or as the case may require, that period as extended under subsection (3)).
- (5) If a notice under this section has been served on the tenant and by virtue of section 138(2) (failure of tenant to pay rent, etc.) the landlord is not bound to complete, the tenant shall be deemed not to comply with the notice.

#### **142 When tenant is entitled to defer completion,.**

- (1) A tenant is entitled to defer completion if—
  - (a) he has claimed the right to a mortgage but is not entitled, or treated as entitled, to a full mortgage,
  - (b) he has, within the period mentioned below, served on the landlord a notice claiming to be entitled to defer completion, and
  - (c) he has, within the same period, deposited the sum of £100 with the landlord.
- (2) The period within which the notice must be served and the sum of £100 deposited is the period of three months beginning with the service on the tenant of the notice under section 135 (notice of terms and amount of mortgage), or that period as extended under subsection (3).
- (3) If there are reasonable grounds for doing so the landlord shall extend (or further extend) that period<sup>X</sup>; and if it fails to do so the county court may by order extend or further extend that period until such date as may be specified in the order.
- (4) A tenant who is entitled to defer completion may at any time before the service on him of a notice under section 140 (landlords' first notice to complete), serve a further notice under section 134(1) (notice claiming to exercise right to a mortgage); and if he does, section 135(1) and (4) (notice of terms and amount of mortgage) apply accordingly.
- (5) If in pursuance of a notice under this section the tenant deposits the sum of £100 with the landlord, then—
  - (a) if he completes the transaction, the sum shall be treated as having been paid towards the purchase price, and
  - (b) if he does not complete the transaction but withdraws his notice claiming to exercise the right to buy, or is deemed to have withdrawn it by virtue of section 141(4) (effect of failure to comply with landlord's second notice to complete), the sum shall be returned to him.

#### *The right to a shared ownership lease*

#### **143 Right to be granted a shared ownership lease.**

- (1) Where a secure tenant has claimed to exercise the right to buy and—
  - (a) his right has been established and his notice claiming to exercise it remains in force,

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(b) he has claimed the right to a mortgage but is not entitled, or treated as entitled, to a full mortgage, and

(c) he is entitled to defer completion,

he also has the right to be granted a shared ownership lease of the dwelling-house in accordance with the following provisions of this Part.

(2) Where the right to buy belongs to two or more persons jointly, the right to be granted a shared ownership lease also belongs to them jointly.

#### **144 Tenant's notice claiming to exercise right to shared ownership lease.**

(1) A secure tenant claims to exercise the right to be granted a shared ownership lease by written notice to that effect served on the landlord stating the initial share which he proposes to acquire.

(2) The notice may be withdrawn or varied at any time by notice in writing served on the landlord.

(3) On the service of a notice under this section, any notice served by the landlord under section 140 or 141 (landlord's notices to complete purchase in pursuance of right to buy) shall be deemed to have been withdrawn; and no such notice may be served by the landlord whilst a notice under this section remains in force.

(4) If on the service by the tenant of a further notice under section 134 (claim to exercise right to a mortgage) he becomes entitled, or treated as entitled, to a full mortgage, he ceases to be entitled to exercise the right to be granted a shared ownership lease; and any notice of his under this section shall be deemed to have been withdrawn.

(5) Where a notice under this section is withdrawn, or deemed to have been withdrawn, the tenant may complete the transaction in accordance with the provisions of this Part relating to the right to buy.

#### **145 Tenant's initial share.**

(1) The tenant's initial share in the dwelling-house shall be a multiple of the prescribed percentage and shall not be less than the minimum initial share.

(2) The prescribed percentage is 12.5 per cent. or such other percentage as the Secretary of State may by order prescribe.

(3) The minimum initial share is 50 per cent. or such other percentage as the Secretary of State may by order prescribe.

(4) An order under this section—

(a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and

(b) may contain such transitional provisions as appear to the Secretary of State to be necessary or expedient.

(5) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.



**146 Landlord’s notice admitting or denying right.**

Where a notice under section 144 (notice claiming to exercise right to shared ownership lease) has been served by the tenant, the landlord shall, unless the notice is withdrawn, serve on the tenant within four weeks a written notice either—

- (a) admitting the tenant’s right, or
- (b) denying it and stating the reasons why, in the opinion of the landlord, the tenant does not have the right to be granted a shared ownership lease.

**147 Landlord’s notice of initial contribution, etc.**

- (1) Where a secure tenant has claimed to exercise the right to be granted a shared ownership lease and that right has been established (whether by the landlord’s admission or otherwise), the landlord shall, within eight weeks, serve on the tenant a written notice complying with this section.
- (2) The notice shall state—
  - (a) the amount which, in the opinion of the landlord, should be the amount of the consideration for the grant of the lease on the assumption that the tenant’s initial share is that stated in the notice under section 144; and
  - (b) the effective discount on an acquisition of that share for that consideration, determined in each case, in accordance with section 148.
- (3) The notice shall state the provisions which, in the opinion of the landlord, should be included in the lease.
- (4) Where the landlord is not a housing association, the notice shall state any variation in the provisions which, in the opinion of the landlord, should be contained in the deed by which the mortgage is to be effected.
- (5) Where the landlord is a housing association, the landlord shall send a copy of the notice to the Housing Corporation, and the Housing Corporation shall, as soon as practicable after receiving the notice, serve on the tenant a written notice stating any variation in the provisions which, in the opinion of the Housing Corporation, should be contained in the deed by which the mortgage is to be effected.

**148 Tenant’s initial contribution and effective discount.**

- (1) The consideration for the grant of a shared ownership lease (the tenant’s “initial contribution”) shall be determined by the formula—

$$C = \frac{S (V - D)}{100}$$

and the effective discount shall be determined by the formula—

$$E = \frac{S \times D}{100}$$

where—

C = the tenant’s initial contribution,

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- E = the effective discount,
- S = the tenant's initial share expressed as a percentage,
- V = the value of the dwelling-house at the relevant time, determined in accordance with section 127, and
- D = the discount which if the tenant were exercising the right to buy would be applicable under sections 129 to 131.

- (2) In determining the value of the dwelling-house for the purposes of this section, the assumptions to be made under section 127 (which vary according to whether it is the freehold or a lease which is to be acquired) are those applicable in relation to the dwelling-house for the purposes of the right to buy.

**149 Change of landlord after notice claiming to exercise right to shared ownership lease.**

Where the interest of the landlord in the dwelling-house passes from the landlord to another body after a secure tenant has given notice claiming to exercise the right to be granted a shared ownership lease, all parties shall be in the same position as if the other body had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.

**150 Duty of landlord to grant shared ownership lease.**

- (1) Where a secure tenant has claimed to exercise the right to be granted a shared ownership lease and that right has been established, then, as soon as all matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house have been agreed or determined, the landlord shall grant the tenant a shared ownership lease of the dwelling-house in accordance with the following provisions of this Part.
- (2) If the tenant has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, the landlord is not bound to comply with subsection (1) while the whole or part of that payment remains outstanding.
- (3) The duty imposed on the landlord by subsection (1) is enforceable by injunction.

**151 Terms and effect of grant and mortgage.**

- (1) A grant of a shared ownership lease in pursuance of this Part shall conform—
- (a) with Schedule 8 (terms of shared ownership lease), and
  - (b) subject to that, with Parts I and III of Schedule 6 (terms of lease granted in pursuance of right to buy);
- and part IV of Schedule 6 (charges) applies to a shared ownership lease as it applies to a lease granted in pursuance of the right to buy.
- (2) The secure tenancy comes to an end on the grant of the shared ownership lease, and if there is then a sub-tenancy section 139 of the Law of Property Act 1925 (effect of extinguishment of reversion) applies as on a merger or surrender.

- (3) Where the transaction is duly completed the sum of £100 deposited by the tenant with the landlord in pursuance of section 142 (deferment of completion) shall be treated as having been paid towards the tenant's initial contribution.
- (4) A deed by which a mortgage is effected where the tenant exercises both the right to a mortgage and the right to be granted a shared ownership lease shall, unless otherwise agreed between the parties, conform with—
  - (a) Schedule 7 (terms of mortgage granted in pursuance of right to a mortgage), and
  - (b) without prejudice to that, with Schedule 9 (right to further advances).

### **152 Landlord's first notice to complete.**

- (1) The landlord may, subject to the provisions of this section, serve on the tenant at any time a written notice requiring him—
  - (a) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice, or
  - (b) if any relevant matters are outstanding, to serve on the landlord within that period a written notice to that effect specifying the matters,and informing the tenant of the effect of this section and of section 153(1), (2) and (4) (landlord's second notice to complete and its effect).
- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.
- (3) A notice under this section shall not be served before the end of the period of two years after the service of the tenant's notice under section 122 (notice claiming to exercise right to buy) or, if later, nine months after the service of the notice under section 135 (landlord's notice of terms and amount of mortgage).
- (4) A notice under this section shall not be served if—
  - (a) a requirement for the determination or re-determination of the value of the dwelling-house by the district valuer has not been complied with,
  - (b) proceedings for the determination of any other relevant matter have not been disposed of, or
  - (c) any relevant matter stated to be outstanding in a written notice served on the landlord by the tenant has not been agreed in writing or determined.
- (5) In this section "relevant matters" means matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house.

### **153 Landlord's second notice to complete.**

- (1) If the tenant does not comply with a notice under section 152 (landlord's first notice to complete), the landlord may serve on him a further written notice—
  - (a) requiring him to complete the transaction within a period stated in the notice, and
  - (b) informing him of the effect of this section in the event of his failing to comply.
- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.

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- (3) At any time before the end of that period (or that period as previously extended) the landlord may by a written notice served on the tenant extend it (or further extend it).
- (4) If the tenant does not comply with a notice under this section, the notice claiming to exercise the right to be granted a shared ownership lease and the notice claiming to exercise the right to buy shall be deemed to have been withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (3)).
- (5) If a notice under this section has been served on the tenant and by virtue of section 150(2) (failure of tenant to pay rent, etc.) the landlord is not bound to complete, the tenant shall be deemed not to comply with the notice.

### *Registration of title*

#### **154 Registration of title.**

- (1) Where the landlord's title to the dwelling-house is not registered, section 123 of the Land Registration Act 1925 (compulsory registration of title) applies in relation to—
  - (a) the conveyance of the freehold or the grant of a lease in pursuance of this Part, or
  - (b) the conveyance of the freehold in pursuance of such a right as is mentioned in paragraph 2(1) or 8(1) of Schedule 8 (terms of shared ownership lease; right to freehold on acquiring 100 per cent. interest),
 whether or not the dwelling-house is in an area in which an Order in Council under section 120 of that Act is for the time being in force (areas of compulsory registration) and, in the case of a lease, whether or not the lease is granted for a term of not less than 40 years.
- (2) Where the landlord's title to the dwelling-house is not registered, the landlord shall give the tenant a certificate stating that the landlord is entitled to convey the freehold or make the grant subject only to such incumbrances, rights and interests as are stated in the conveyance or grant or summarised in the certificate.
- (3) Where the landlord's interest in the dwelling-house is a lease, the certificate under subsection (2) shall also state particulars of that lease and, with respect to each superior title—
  - (a) where it is registered, the title number;
  - (b) where it is not registered, whether it was investigated in the usual way on the grant of the landlord's lease.
- (4) A certificate under subsection (2) shall be—
  - (a) in a form approved by the Chief Land Registrar, and
  - (b) signed by such officer of the landlord or such other person as may be approved by the Chief Land Registrar.
- (5) The Chief Land Registrar shall, for the purpose of the registration of title, accept such a certificate as sufficient evidence of the facts stated in it; but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1971 the landlord is liable to indemnify him.
- (6) Sections 8 and 22 of the Land Registration Act 1925 (application for registration of leasehold land and registration of dispositions of leasehold) apply in relation to a lease granted in pursuance of this part notwithstanding that it is a lease for a term of which

not more than 21 years are unexpired or, as the case may be, a lease granted for a term not exceeding 21 years.

*Provisions affecting future disposals*

**155 Repayment of discount on early disposal.**

- (1) A conveyance of the freehold or grant of a lease in pursuance of this Part shall contain (unless, in the case of a conveyance or grant in pursuance of the right to buy, there is no discount) a covenant binding on the secure tenant and his successors in title to the following effect.
- (2) In the case of a conveyance or grant in pursuance of the right to buy, the covenant shall be to pay to the landlord on demand, if within a period of five years there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal, then only on the first of them), the discount to which the secure tenant was entitled, reduced by 20 per cent. for each complete year which has elapsed after the conveyance or grant and before the disposal.
- (3) In the case of a grant in pursuance of the right to be granted a shared ownership lease, the covenant shall be to pay to the landlord on demand, if within a period of five years commencing with the acquisition by the tenant of his initial share or the acquisition by him of an additional share there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal, then only on the first of them), the aggregate of—
  - (a) the effective discount (if any) to which the tenant was entitled on the acquisition of his initial share, and
  - (b) for each additional share, the effective discount (if any) to which the tenant was entitled on the acquisition of that share,reduced, in each case, by 20 per cent. for each complete year which has elapsed after the acquisition and before the disposal.

**156 Liability to repay is a charge on the premises.**

- (1) The liability that may arise under the covenant required by section 155 is a charge on the dwelling-house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.
- (2) The charge has priority immediately after any legal charge securing an amount—
  - (a) left outstanding by the tenant in exercising the right to buy or the right to be granted a shared ownership lease, or
  - (b) advanced to him by an approved lending institution for the purpose of enabling him to exercise that right, or
  - (c) further advanced to him by that institution;but the landlord may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to a legal charge securing an amount advanced or further advanced to the tenant by that institution
- (3) A charge taking effect by virtue of this section is a land charge for the purposes of section 59 of the Land Registration Act 1925 notwithstanding subsection (5) of that section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.

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- (4) The approved lending institutions for the purposes of this section are—  
the Housing Corporation,  
a building society,  
a bank  
a trustee savings bank,  
an insurance company,  
a friendly society,  
and any body specified, or of a class or description specified, in an order made by the Secretary of State with the consent of the Treasury.
- (5) An order under subsection (4)—  
(a) shall be made by statutory instrument, and  
(b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.
- (6) Before making an order varying or revoking a previous order, the Secretary of State shall give an opportunity for representations to be made on behalf of any body which, if the order were made, would cease to be an approved lending institution for the purposes of this section.

**157 Restriction on disposal of dwelling-houses in National Parks, etc.**

- (1) Where in pursuance of this Part a conveyance or grant is executed by a local authority, the Development Board for Rural Wales or a housing association (“the landlord”) of a dwelling-house situated in—  
(a) a National Park,  
(b) an area designated under section 87 of the National Parks and Access to the Countryside Act 1949 as an area of outstanding natural beauty, or  
(c) an area designated by order of the Secretary of State as a rural area,  
the conveyance or grant may contain a covenant limiting the freedom of the tenant (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the dwelling-house in the manner specified below.
- (2) The limitation is, subject to subsection (4), that until such time (if any) as may be notified in writing by the landlord to the tenant or a successor in title of his, there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord; but that consent shall not be withheld if the disposal is to a person satisfying the condition stated in subsection (3).
- (3) The condition is that the person to whom the disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent—  
(a) had his place of work in a region designated by order of the Secretary of State which, or part of which, is comprised in the National Park or area, or  
(b) had his only or principal home in such a region;  
or has had the one in part or parts of that period and the other in the remainder; but the region need not have been the same throughout the period.
- (4) If the Secretary of State or, where the landlord is a housing association, the Housing Corporation, consents, the limitation specified in subsection (2) may be replaced by the following limitation, that is to say, that until the end of the period of ten years

beginning with the conveyance or grant there will be no relevant disposal which is not an exempted disposal, unless in relation to that or a previous such disposal—

- (a) the tenant (or his successor in title or the person deriving title under him or his successor) has offered to reconvey the dwelling-house, or as the case may be surrender the lease, to the landlord for such consideration as is mentioned in section 158, and
  - (b) the landlord has refused the offer or has failed to accept it within one month after it was made.
- (5) The consent of the Secretary of State or the Housing Corporation under subsection (4) may be given subject to such conditions as he or, as the case may be, the Corporation, thinks fit.
- (6) A disposal in breach of such a covenant as is mentioned in subsection (1) is void.
- (7) Where such a covenant imposes the limitation specified in subsection (2), the limitation is a local land charge and the Chief Land Registrar shall enter the appropriate restriction on the register of title as if application therefor had been made under section 58 of the Land Registration Act 1925.
- (8) An order under this section—
- (a) may make different provision with respect to different cases or descriptions of case, 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.

### **158 Consideration for reconveyance or surrender under s. 157.**

- (1) The consideration for the offer by a tenant, referred to in section 157(4)(a), to reconvey or surrender his interest to the landlord shall be such amount as may be agreed between the parties or determined by the district valuer as being the amount which is to be taken as the value of the dwelling-house at the time the offer is made.
- (2) That value shall be taken to be the price which, at that time, the interest to be reconveyed or surrendered would realise if sold on the open market by a willing vendor, on the assumption that any liability under—
  - (a) the covenant required by section 155 (repayment of discount on early disposal), and
  - (b) any covenant required by paragraph 6 of Schedule 8 (payment for outstanding share on disposal of dwelling-house subject to shared ownership lease),would be discharged by the vendor.
- (3) If the landlord accepts the offer, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.

### **159 Relevant disposals.**

- (1) A disposal, whether of the whole or part of the dwelling-house, is a relevant disposal for the purposes of this Part if it is—

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- (a) a further 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) 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.

### **160 Exempted disposals.**

- (1) A disposal is an exempted disposal for the purposes of this Part if—
- (a) it is a disposal of the whole of the dwelling-house and a further 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 (2));
  - (b) it is a vesting of the whole of the dwelling-house in a person taking under a will or on an intestacy;
  - (c) it is a disposal of the whole of the dwelling-house in pursuance of an order made under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 2 of the Inheritance (Provision for Family and Dependents) Act 1975 (orders as to financial provision to be made from estate);
  - (d) it is a compulsory disposal (as defined in section 161); or
  - (e) it is a disposal of property consisting of land included in the dwelling-house by virtue of section 184 (land let with or used for the purposes of the dwelling-house).
- (2) For the purposes of subsection (1)(a), a person is a qualifying person in relation to a disposal if—
- (a) he is the person, or one of the persons, by whom the disposal is made,
  - (b) he is the spouse or a former spouse of that person, or one of those persons, or
  - (c) he is a member of the family of that person, or one of those persons, and has resided with him throughout the period of twelve months ending with the disposal.

### **161 Meaning of “compulsory disposal”.**

In this Part a “compulsory disposal” means a disposal of property which is acquired compulsorily, or is acquired by a person who has made or would have made, or for whom another person has made or would have made, a compulsory purchase order authorising its compulsory purchase for the purposes for which it is acquired.

### **162 Exempted disposals which end liability under covenants.**

Where there is a relevant disposal which is an exempted disposal by virtue of section 160(1)(d) or (e) (compulsory disposals or disposals of land let with or used for purposes of dwelling-house)—

- (a) the covenant required by section 155 (repayment of discount on early disposal) is not binding on the person to whom the disposal is made or any successor in title of his and that covenant and the charge taking effect by virtue of section 156 cease to apply in relation to the property disposed of, and



- (b) any such covenant as is mentioned in section 157 (restriction on disposal of dwelling-houses in National Parks, etc.) ceases to apply in relation to the property disposed of.

### **163 Treatment of options.**

- (1) For the purposes of this Part the grant of an option enabling a person to call for a relevant disposal which is not an exempted disposal shall be treated as such a disposal made to him.
- (2) For the purposes of section 157(2) (requirement of consent to disposal of dwelling-house in National Park, etc.) a consent to such a grant shall be treated as a consent to a disposal in pursuance of the option.

### *Powers of Secretary of State*

### **164 Secretary of State's general power to intervene.**

- (1) The Secretary of State may use his powers under this section where it appears to him that tenants generally, a tenant or tenants of a particular landlord, or tenants of a description of landlords, have or may have difficulty in exercising effectively and expeditiously the right to buy or the right to be granted a shared ownership lease.
- (2) The powers may be exercised only after he has given the landlord or landlords notice in writing of his intention to do so and while the notice is in force.
- (3) Such a notice shall be deemed to be given 72 hours after it has been sent.
- (4) Where a notice under this section has been given to a landlord or landlords, no step taken by the landlord or any of the landlords while the notice is in force or before it was given has any effect in relation to the exercise by a secure tenant of the right to buy, the right to a mortgage or the right to be granted a shared ownership lease, except in so far as the notice otherwise provides.
- (5) While a notice under this section is in force the Secretary of State may do all such things as appear to him necessary or expedient to enable secure tenants of the landlord or landlords to which the notice was given to exercise the right to buy, the right to a mortgage and the right to be granted a shared ownership lease; and he is not bound to take the steps which the landlord would have been bound to take under this Part.
- (6) Where in consequence of the exercise by a secure tenant of the right to a mortgage a landlord becomes a mortgagee of a dwelling-house whilst a notice under this section is in force in relation to the landlord and to the dwelling-house, then, while the notice remains in force—
  - (a) the Secretary of State may, on behalf of the mortgagee, receive any sums due to it and exercise all powers and do all things which the mortgagee could have exercised or done, and
  - (b) the mortgagee shall not receive any such sum, exercise any such power or do any such thing, except with the consent of the Secretary of State, which may be given subject to such conditions as the Secretary of State thinks fit.

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## **165 Vesting orders for purposes of s. 164.**

- (1) For the purpose of conveying a freehold or granting a lease in the exercise of his powers under section 164 the Secretary of State may execute a document, to be known as a vesting order, containing such provisions as he may determine; and for the purposes of stamp duty the vesting order shall be treated as a document executed by the landlord.
- (2) A vesting order has the like effect, except so far as it otherwise provides, as a conveyance or grant duly executed in pursuance of this Part, and, in particular, binds both the landlord and its successors in title and the tenant and his successors in title (including any person deriving title under him or them) to the same extent as if the covenants contained in it and expressed to be made on their behalf had been entered into by them.
- (3) If the landlord's title to the dwelling-house in respect of which a vesting order is made is not registered, the vesting order shall contain a certificate stating that the freehold conveyed or grant made by it is subject only to such incumbrances, rights and interests as are stated elsewhere in the vesting order or summarised in the certificate.
- (4) The Chief Land Registrar shall, on a vesting order being presented to him, register the tenant as proprietor of the title concerned; and if the title has not previously been registered—
  - (a) he shall so register him with an absolute title, or as the case may require a good leasehold title, and
  - (b) he shall, for the purpose of the registration, accept any such certificate as is mentioned in subsection (3) as sufficient evidence of the facts stated in it.
- (5) Where the landlord's title to a dwelling-house with respect to which the right to buy, or the right to be granted a shared ownership lease, is exercised is registered, the Chief Land Registrar shall—
  - (a) if so requested by the Secretary of State, supply him (on payment of the appropriate fee) with an office copy of any document required by the Secretary of State for the purpose of executing a vesting order with respect to the dwelling-house, and
  - (b) notwithstanding section 112 of the Land Registration Act 1925 (authority of proprietor required for inspection of register, etc.), allow any person authorised by the Secretary of State to inspect and make copies of and extracts from any register or document which is in the custody of the Chief Land Registrar and relates to the dwelling-house.
- (6) If a person suffers loss in consequence of a registration under this section in circumstances in which he would have been entitled to be indemnified under section 83 of the Land Registration Act 1925 by the Chief Land Registrar had the registration of the tenant as proprietor of the title been effected otherwise than under this section, he is instead entitled to be indemnified by the Secretary of State and section 166(4) of this Act (recovery of Secretary of State's costs from landlord) applies accordingly.

## **166 Other provisions supplementary to s. 164.**

- (1) A notice under section 164 may be withdrawn by a further notice in writing, either completely or in relation to a particular landlord or a particular case or description of case.

- (2) The further notice may give such directions as the Secretary of State may think fit for the completion of a transaction begun before the further notice was given; and such directions are binding on the landlord, and may require the taking of steps different from those which the landlord would have been required to take if the Secretary of State's powers under section 164 had not been used.
- (3) Where in consequence of the exercise of his powers under section 164 the Secretary of State receives sums due to a landlord, he may retain them while a notice under that section is in force in relation to the landlord and is not bound to account to the landlord for interest accruing on them.
- (4) Where the Secretary of State exercises his powers under section 164 with respect to secure tenants of a landlord, he may—
  - (a) calculate, in such manner and on such assumptions as he may determine, the costs incurred by him in doing so, and
  - (b) certify a sum as representing those costs;and a sum so certified is a debt from the landlord to the Secretary of State payable on a date specified in the certificate, together with interest from that date at a rate so specified.
- (5) sums payable under subsection (4) may, without prejudice to any other method of recovery, be recovered from the landlord by the withholding of sums due from the Secretary of State, including sums payable to the landlord and received by the Secretary of State in consequence of his exercise of his powers under section 164.
- (6) In this section the references to a landlord include references to a body which has become a mortgagee in consequence of the exercise by a secure tenant of the right to a mortgage, and the references to the powers of the Secretary of State with respect to the secure tenants of a landlord include references to the powers of the Secretary of State to act on behalf of such a mortgagee.

**167 Power to give directions as to covenants and conditions.**

- (1) Where it appears to the Secretary of State that, if covenants or conditions of any kind were included in conveyances or grants of dwelling-houses of any description executed in pursuance of this Part—
  - (a) the conveyances would not conform with Parts I and II of Schedule 6, or
  - (b) the grants would not conform with Parts I and III of that Schedule.he may direct landlords generally, landlords of a particular description or particular landlords not to include covenants or conditions of that kind in such conveyances or grants executed on or after a date specified in the direction.
- (2) A direction under this section may be varied or withdrawn by a subsequent direction.

**168 Effect of direction under s. 167 on existing covenants and conditions.**

- (1) If a direction under section 167 so provides, the provisions of this section shall apply in relation to a covenant or condition which—
  - (a) was included in a conveyance or grant executed before the date specified in the direction, and
  - (b) could not have been so included if the conveyance or grant had been executed on or after that date.

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- (2) The covenant or condition shall be discharged or (if the direction so provides) modified, as from the specified date, to such extent or in such manner as may be provided by the direction; and the discharge or modification is binding on all persons entitled or capable of becoming entitled to the benefit of the covenant or condition.
- (3) The landlord by whom the conveyance or grant was executed shall, within such period as may be specified in the direction—
  - (a) serve on the person registered as the proprietor of the dwelling-house, and on any person registered as the proprietor of a charge affecting the dwelling-house, a written notice informing him of the discharge or modification, and
  - (b) on behalf of the person registered as the proprietor of the dwelling-house, apply to the Chief Land Registrar (and pay the appropriate fee) for notice of the discharge or modification to be entered in the register.
- (4) For the purposes of enabling the landlord to comply with the requirements of subsection (3) the Chief Land Registrar shall, notwithstanding section 112 of the Land Registration Act 1925 (authority of proprietor required for inspection of register, etc.) allow any person authorised by the landlord to inspect and make copies of and extracts from any register or document which is in the custody of the Chief Land Registrar and relates to the dwelling-house.
- (5) Notwithstanding anything in section 64 of the Land Registration Act 1925 (certificates to be produced and noted on dealings), notice of the discharge or modification may be entered in the register without the production of any land certificate outstanding in respect of the dwelling-house, but without prejudice to the power of the Chief Land Registrar to compel production of the certificate for the purposes mentioned in that section.

#### **169 Power to obtain information, etc.**

- (1) Where it appears to the Secretary of State necessary or expedient for the purpose of determining whether his powers under section 164 or 166 (general power to intervene) or section 167 or 168 (power to give directions as to covenants and conditions) are exercisable, or for or in connection with the exercise of those powers, he may by notice in writing to a landlord require it—
  - (a) at such time and at such place as may be specified in the notice, to produce any document, or
  - (b) within such period as may be so specified or such longer period as the Secretary of State may allow, to furnish a copy of any document or supply any information.
- (2) Any officer of the landlord designated in the notice for that purpose or having custody or control of the document or in a position to give that information shall, without instructions from the landlord, take all reasonable steps to ensure that the notice is complied with.
- (3) In this section references to a landlord include—
  - (a) a landlord by whom a conveyance or grant was executed in pursuance of this Part, and
  - (b) a body which has become a mortgagee in consequence of the exercise by a secure tenant of the right to a mortgage.

## **170 Power to give assistance in connection with legal proceedings.**

- (1) This section applies to—
  - (a) proceedings under this Part or to determine a question arising under or in connection with this Part, and
  - (b) proceedings to determine a question arising under or in connection with a conveyance or grant executed in pursuance of this Part,  
other than proceedings to determine a question as to the value of a dwelling-house (or part of a dwelling-house).
- (2) A party or prospective party to proceedings or prospective proceedings to which this section applies, who—
  - (a) has claimed to exercise or has exercised the right to buy or the right to be granted a shared ownership lease, or
  - (b) is a successor in title of a person who has exercised either of those rights,  
may apply to the Secretary of State for assistance under this section.
- (3) The Secretary of State may grant the application if he thinks fit to do so on the ground—
  - (a) that the case raises a question of principle, or
  - (b) that it is unreasonable having regard to the complexity of the case, or to any other matter, to expect the applicant to deal with it without such assistance,  
or by reason of any other special consideration.
- (4) Assistance by the Secretary of State under this section may include—
  - (a) giving advice.
  - (b) procuring or attempting to procure the settlement of the matter in dispute,
  - (c) arranging for the giving of advice or assistance by a solicitor or counsel,
  - (c) arranging for representation by a solicitor or counsel, including such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings, and
  - (e) any other form of assistance which the Secretary of State may consider appropriate;but paragraph (d) does not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend and address the court in any proceedings.
- (5) In so far as expenses are incurred by the Secretary of State in providing the applicant with assistance under this section, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules of court) shall constitute a first charge for the benefit of the Secretary of State—
  - (a) on any costs which (whether by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the applicant by any other person in respect of the matter in connection with which the assistance was given, and
  - (b) so far as relates to any costs, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings;but subject to any charge under the Legal Aid Act 1974 and to any provision of that Act for payment of any sum into the legal aid fund.
- (6) References in this section to a solicitor include the Treasury Solicitor.

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*Power to extend right to buy, etc.*

**171 Power to extend right to buy, etc.**

- (1) The Secretary of State may by order provide that, where there are in a dwelling-house let on a secure tenancy one or more interest to which this section applies, this Part and Part IV (secure tenancies) have effect with such modifications as are specified in the order.
- (2) This section applies to an interest held by—
  - a local authority,
  - a new town corporation,
  - an urban development corporation,
  - the Development Board for Rural Wales,
  - the Housing Corporation, or
  - a registered housing association,which is immediately superior to the interest of the landlord or to another interest to which this section applies.
- (3) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case;
  - (b) may contain such consequential, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient; and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Modifications of Leasehold Reform Act 1967 in relation to leases granted under this Part*

**172 Exclusion of leases where landlord is housing association and freeholder is a charity.**

- (1) Part I of the Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds) does not apply where, in the case of a tenancy or sub-tenancy to which this section applies, the landlord is a housing association and the freehold is owned by a body of persons or trust established for charitable purposes only.
- (2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a dwelling-house which is a house.
- (3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.
- (4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).

**173 Exclusion of shared ownership leases granted under this Part.**

- (1) Where a tenancy of a dwelling-house which is a house is created by the grant of a lease in pursuance of the right to be granted a shared ownership lease, then, so long

as the rent payable under the lease exceeds £10 per annum, neither the tenant nor the tenant under a sub-tenancy directly or indirectly derived out of the tenancy shall be entitled to acquire the free-hold or an extended lease of the dwelling-house under Part I of the Leasehold Reform Act 1967.

- (2) Subsection (1) applies notwithstanding the provisions of section 174 (leases granted under this Part to be treated as long leases at a low rent).

#### **174 Leases granted under this Part to be treated as long leases at a low rent.**

For the purposes of Part I of the Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds)—

- (a) a tenancy created by the grant of a lease in pursuance of this part of a dwelling-house which is a house shall be treated as being a long tenancy notwithstanding that it is granted for a term of 21 years or less, and
- (b) a tenancy created by the grant of such a lease in pursuance of the right to be granted a shared ownership lease shall be treated as being a tenancy at a low rent notwithstanding that rent is payable under the tenancy at a yearly rate equal to or more than two-thirds of the rateable value of the dwelling-house on the first day of the term.

#### **175 Determination of price payable.**

- (1) Where, in the case of a tenancy or sub-tenancy to which this section applies, the tenant exercises his right to acquire the freehold under Part I of the Leasehold Reform Act 1967, the price payable for the dwelling-house shall be determined in accordance with section 9(1A) of that Act notwithstanding that the rateable value of the dwelling-house does not exceed £1,000 in Greater London or £500 elsewhere.
- (2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a dwelling-house which is a house.
- (3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.
- (4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).
- (5) This section also applies to a tenancy granted in substitution for a tenancy or sub-tenancy falling within subsections (2) to (4) in pursuance of Part I of the 1967 Act.

#### *Supplementary provisions*

#### **176 Notices.**

- (1) The Secretary of State may by regulations prescribe the form of any notice under this Part and the particulars to be contained in the notice.
- (2) Where the form of, and the particulars to be contained in, a notice under this Part are so prescribed, a tenant who proposes to claim, or has claimed, to exercise the right to

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buy may request the landlord to supply him with a form for use in giving such notice; and the landlord shall do so within seven days of the request.

- (3) A notice under this Part may be served by sending it by post.
- (4) Where the landlord is a housing association, a notice to be served by the tenant on the landlord under this Part may be served by leaving it at, or sending it to, the principal office of the association or the office of the association with which the tenant usually deals.
- (5) Regulations under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument.

### **177 Errors and omissions in notices.**

- (1) A notice served by a tenant under this Part is not invalidated by an error in, or omission from, the particulars which are required by regulations under section 176 to be contained in the notice.
- (2) Where as a result of such an error or omission—
  - (a) the landlord has mistakenly admitted or denied the right to buy or the right to be granted a shared ownership lease in a notice under section 124 or 146, or
  - (b) the landlord or the Housing Corporation has formed a mistaken opinion as to any matter required to be stated in a notice by any of the provisions mentioned in sub-section (3) and has stated that opinion in the notice,

the parties shall, as soon as practicable after they become aware of the mistake, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the propose of securing that all parties are, as nearly as may be, in the same position as they would have been if the mistake had not been made.
- (3) The provisions referred to in subsection (2)(b) are—
  - section 125 (notice of purchase price, etc.),
  - section 135 (notice of mortgage entitlement),
  - section 147 (notice of initial contribution),
  - paragraph 1(3) of Schedule 8 (notice of additional contribution), and
  - paragraph 5 of Schedule 9 (notice of entitlement to further advance).
- (4) Subsection (2) does not apply where the tenant has exercised the right to which the notice relates before the parties become aware of the mistake.

### **178 Costs.**

- (1) An agreement between—
  - (a) the landlord and a tenant claiming to exercise the right to buy, the right to be granted a shared ownership lease, or any such right as is mentioned in paragraphs 1(1), 2 or 8 of Schedule 8 (terms of shared ownership lease: right to acquire additional shares or call for conveyance of freehold), or



- (b) the landlord or, as the case may be, the Housing Corporation and a tenant claiming to exercise the right to a mortgage, or such a right as is mentioned in paragraph 1 of Schedule 9 (right to further advances),  
is void in so far as it purports to oblige the tenant to bear any part of the costs incurred by the landlord or Housing Corporation in connection with the tenant's exercise of that right.
- (2) Where a tenant exercises the right to a mortgage, or such a right as is mentioned in paragraph 1 of Schedule 9 (right to further advances), the landlord or, as the case may be, the Housing Corporation may charge to him the costs incurred by it in connection with his exercise of that right, but only—
- (a) on the execution of the deed by which the mortgage is effected, and
- (b) to the extent that the costs do not exceed such amount as the Secretary of State may by order specify.
- (3) An order under this section—
- (a) may make different provision with respect to different cases or descriptions of case, 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.

#### **179 Provisions restricting right to buy, etc. of no effect.**

- (1) A provision of a lease held by the landlord or a superior landlord, or of an agreement (whenever made), is void in so far as it purports to prohibit or restrict—
- (a) the grant of a lease in pursuance of the right to buy or the right to be granted a shared ownership lease, or
- (b) the subsequent disposal (whether by way of assignment, sub-lease or otherwise) of a lease so granted
- or to authorise a forfeiture, or impose on the landlord or superior landlord a penalty or disability, in the event of such a grant or disposal.
- (2) Where a dwelling-house let on a secure tenancy is land held—
- (a) for the purposes of section 164 of the Public Health Act 1875 (pleasure grounds), or
- (b) in accordance with section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),
- then, for the purposes of this Part, the dwelling-house shall be deemed to be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with section 164 or, as the case may be, section 10.

#### **180 Statutory declarations.**

A landlord, the Housing Corporation or the Secretary of State may, if the landlord, Corporation or Secretary of State thinks fit, accept a statutory declaration made for the purposes of this Part as sufficient evidence of the matters declared in it.

#### **181 Jurisdiction of county court.**

- (1) A county court has jurisdiction—
- (a) to entertain any proceedings brought under this Part, and

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- (b) to determine any question arising under this Part or under a shared ownership lease granted in pursuance of this Part;  
 but subject to sections 128 and 158 and paragraph 11 of Schedule 8 (which provide for matters of valuation to be determined by the district valuer).
- (2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any such question as is mentioned in subsection (1)(b) notwithstanding that no other relief is sought than a declaration.
- (3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.
- (4) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this section; and such rules or directions may provide—
- (a) for the exercise by a registrar of a county court of any jurisdiction exercisable under this section, and
- (b) for the conduct of proceedings in private.
- (5) The power to make rules under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **182 Power to repeal or amend local Acts.**

- (1) The Secretary of State may by order repeal or amend a provision of a local Act passed before 8th August 1980 where it appears to him that the provision is inconsistent with a provision of this Part relating to the right to buy or the right to a mortgage.
- (2) Before making an order under this section the Secretary of State shall consult any local housing authority appearing to him to be concerned.
- (3) An order made under this section may contain such transitional, incidental or supplementary provisions as the Secretary of State considers appropriate.
- (4) An order under this section—
- (a) may make different provision with respect to different cases or descriptions of case, 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.

## **183 Meaning of “house”, “flat” and “dwelling-house”.**

- (1) The following provisions apply to the interpretation of “house”, “flat” and “dwelling-house” when used in this Part.
- (2) A dwelling-house is a house if, and only if, it (or so much of its as does not consist of land included by virtue of section 184) is a structure reasonably so called; so that—
- (a) where a building is divided horizontally, the flats or other units into which it is divided are not houses;
- (b) where a building is divided vertically, the units into which it is divided may be houses;
- (c) where a building is not structurally detached, it is not a house if a material part of it lies above or below the remainder of the structure.

- (3) A dwelling-house which is not a house is a flat.

**184 Land let with or used for purposes of dwelling-house.**

- (1) For the purpose of this Part land let together with a dwelling-house shall be treated as part of the dwelling-house, unless the land is agricultural land (within the meaning set out in section 26(3)(a) of the General Rate Act 1967) exceeding two acres.
- (2) There shall be treated as included in a dwelling-house any land which is not within subsection (1) but is or has been used for the purpose of the dwelling-house if—
- (a) the tenant, by a written notice served on the landlord at any time before he exercises the right to buy or the right to be granted a shared ownership lease, requires the land to be included in the dwelling-house, and
- (b) it is reasonable in all the circumstances for the land to be so included.
- (3) A notice under subsection (2) may be withdrawn by a written notice served on the landlord at any time before the tenant exercises the right to buy or the right to be granted a shared ownership lease.
- (4) Where a notice under subsection (2) is served or withdrawn after the service of the notice under section 125 (landlord's notice of purchase price, etc.), the parties shall, as soon as practicable after the service or withdrawal, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been in if the notice under subsection (2) had been served or withdrawn before the service of the notice under section 125.

**185 Meaning of “secure tenancy” and “secure tenant”.**

- (1) References in this Part to a secure tenancy or a secure tenant in relation to a time before 26th August 1984 are to a tenancy which would have been a secure tenancy if Chapter II of Part I of the Housing Act 1980 and Part I of the Housing and Building Control Act 1984 had then been in force or to a person who would then have been a secure tenant.
- (2) For the purpose of determining whether a person would have been a secure tenant and his tenancy a secure tenancy—
- (a) a predecessor of a local authority shall be deemed to have been such an authority, and
- (b) a housing association shall be deemed to have been registered if it is or was so registered at any later time.

**186 Members of a person's family.**

- (1) A person is a member of another's family within the meaning of this Part if—
- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
- (b) he is that person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purposes of subsection (1)(b)—
- (a) a relationship by marriage shall be treated as a relationship by blood,

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- (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
- (c) the stepchild of a person shall be treated as his child, and
- (d) an illegitimate child shall be treated as as the legitimate child of his mother and reputed father.

### **187 Minor definitions.**

In this Part—

“improvement” means any alteration in, or addition to, a dwelling-house and includes—

- (a) any addition to, or alteration in, landlord’s fixtures and fittings and any addition or alteration connected with the provision of services to a dwelling-house,
- (b) the erection of a wireless or television aerial, and
- (c) the carrying out of external decoration;

“long tenancy” means—

- (a) a long tenancy within the meaning of part IV,
- (b) a tenancy falling within paragraph 1 of Schedule 1 to the Tenants' Rights, Etc. (Scotland) Act 1980, or
- (c) a tenancy falling within paragraph 1 of Schedule 2 to the Housing (Northern Ireland) Order 1983;

and “long lease” shall be construed accordingly;

“total share”, in relation to the interest of a tenant under a shared ownership lease, means his initial share plus any additional share or shares in the dwelling-house acquired by him.

### **188 Index of defined expressions: Part V.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

additional share and additional contribution (in relation to a tenant under a shared ownership lease)	paragraphs 1 and 3 of Schedule 8
bank	section 622
building society	section 622
cemetery	section 622
charity	section 662
compulsory disposal	section 161
co-operative housing association	section 5(2)
dwelling-house	sections 183 and 184
effective discount (in relation to shares under a shared ownership lease)	section 148 and paragraph 3 of Schedule 8

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exempted disposal	section 160
family (member of)	section 186
flat	section 183
friendly society	section 622
full mortgage	section 133(5)
house	section 183
housing association	section 5(1)
housing trust	section 6
improvement	section 187
incumbrances	paragraph 7 of Schedule 6
initial share and initial contribution (in relation to a shared ownership lease.)	sections 147 and 148
insurance company	section 622
lease	section 621
local authority	section 4(e)
local housing authority	section 1, 2(2)
long tenancy (and long lease)	section 187
new town corporation	section 4(b)
prescribed percentage (in relation to shares in a shared ownership lease)	section 145
public sector tenancy (and public sector tenant)	paragraphs 6 to 10 of Schedule 4
purchase price	section 126
registered (in relation a housing association)	section 5(4)
regular armed forces of the Crown	section 622
relevant disposal	section 159 (and see section 452(3))
relevant time	section 122(2)
right to be granted a shared ownership lease	section 143
right to buy	section 118(1)
right to further advances	paragraph 1 of Schedule 9
right to a mortgage	section 132
secure tenancy and secure tenant	sections 79 and 185
tenant's incumbrance	paragraph 7 of Schedule 6
total share (of a tenant under a shared ownership lease)	section 187

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trustee savings bank	section 622
urban development corporation	section 4(d)

## PART VI

### REPAIR NOTICES

#### *Repair Notices*

#### **189 Repair notice in respect of unfit house.**

- (1) Where the local housing authority are satisfied that a house is unfit for human habitation, they shall serve a repair notice on the person having control of the house, unless they are satisfied that the house is not capable of being rendered so fit at reasonable expense.
- (2) A repair notice under this section shall—
  - (a) require the person on whom it is served to execute the works specified in the notice within such reasonable time, not being less than 21 days, as is specified in the notice, and
  - (b) state that in the opinion of the authority the works specified in the notice will render the house fit for human habitation.
- (3) The authority, in addition to serving the notice on the person having control of the house, may serve a copy of the notice on any other person having an interest in the house, whether as freeholder, mortgagee, lessee or otherwise.
- (4) The notice becomes operative, if no appeal is brought, on the expiration of 21 days from the date of the service of the notice and is final and conclusive as to matters which could have been raised on an appeal.

#### **190 Repair notice in respect of house in state of disrepair but not unfit.**

- (1) Where the local housing authority—
  - (a) are satisfied that a house is in such a state of disrepair that, although not unfit for human habitation, substantial repairs are necessary to bring it up to a reasonable standard, having regard to its age, character and locality, or
  - (b) are satisfied on a representation made by an occupying tenant that a house is in such a state of disrepair that, although not unfit for human habitation, its condition is such as to interfere materially with the personal comfort of the occupying tenant,
 they may serve a repair notice on the person having control of the house.
- (2) A repair notice under this section shall require the person on whom it is served, within such reasonable time, not being less than 21 days, as is specified in the notice, to execute the works specified in the notice, not being works of internal decorative repair.
- (3) The authority, in addition to serving the notice on the person having control of the house, may serve a copy of the notice on any other person having an interest in the house, whether as freeholder, mortgagee, lessee or otherwise.

- (4) The notice becomes operative, if no appeal is brought, on the expiry of 21 days from the date of service of the notice and is final and conclusive as to matters which could have been raised on an appeal.

### **191 Appeals against repair notices.**

- (1) A person aggrieved by a repair notice may within 21 days after the date of service of the notice, appeal to the county court.
- (2) On an appeal the court may make such order either confirming, quashing or varying the notice as it thinks fit.
- (3) Where the appeal is allowed against a repair notice under section 189 (repair notice in respect of unfit house), the judge shall, if requested to do so by the local housing authority, include in his judgment a finding whether the house can or cannot be rendered fit for human habitation at a reasonable expense.
- (4) If an appeal is brought the notice does not become operative until—
  - (a) a decision on the appeal confirming the notice (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
  - (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the notice (with or without variation);and for this purpose the withdrawal of an appeal has the same effect as a decision confirming the notice or decision appealed against.

### **192 Power to purchase house found on appeal to be unfit and beyond repair at reasonable expense.**

- (1) Where a person has appealed against a repair notice under section 189 (repair notice in respect of unfit house) and the court in allowing the appeal has found that the house cannot be rendered fit for human habitation at a reasonable expense, the local housing authority may purchase the house by agreement or be authorised by the Secretary of State to purchase it compulsorily.
- (2) The Secretary of State shall not confirm an order for the compulsory purchase of a house under this section unless the order is submitted to him within six months after the determination of the appeal.
- (3) If an owner or mortgagee of the house undertakes to carry out to the satisfaction of the Secretary of State, within such period as the Secretary of State may fix, the works specified in the notice against which the appeal was brought, the Secretary of State shall not confirm the compulsory purchase order unless that person has failed to fulfil his undertaking.
- (4) If the local housing authority purchase the house compulsorily they shall forthwith execute all the works specified in the notice against which the appeal was brought.

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### *Enforcement*

#### **193 Power of local housing authority to execute works.**

- (1) If a repair notice is not complied with the local housing authority may themselves do the work required to be done by the notice.
- (2) For this purpose compliance with the notice means the completion of the works specified in the notice within—
  - (a) the period specified in the notice, or,
  - (b) if an appeal is brought against the notice, the period of 21 days, or such longer period as the court in determining the appeal may fix,from the date on which the notice becomes operative.
- (3) The provisions of Schedule 10 apply with respect to the recovery by the local housing authority of expenses incurred by them under this section.

#### **194 Notice of authority's intention to execute works.**

- (1) Where the local housing authority are about to enter upon a house under the provisions of section 193 for the purpose of doing any work, they may give notice in writing of their intention to do so to the person having control of the house and, if they think fit, to any owner of the house.
- (2) If at any time after the expiration of seven days from the service of the notice on him and whilst any workman or contractor employed by the local housing authority is carrying out works in the house—
  - (a) the person on whom the notice was served is in the house for the purpose of carrying out any works, or
  - (b) any workman employed by him or by any contractor employed by him is in the house for such purpose,the person on whom the notice was served shall be deemed for the purpose of section 198 (penalty for obstruction) to be obstructing the authority in the execution of this Part unless he shows that there was urgent necessity to carry out the works in order to obviate danger to occupants of the house.

#### **195 Power of court to order occupier or owner to permit things to be done.**

- (1) If a person, after receiving notice of the intended action—
  - (a) being the occupier of premises, prevents the owner or person having control of the premises, or his officers, servants or agents, from carrying into effect with respect to the premises any of the provisions of this Part, or
  - (b) being the occupier, owner or person having control of premises, prevents an officer, servant or agent of the local housing authority from so doing,a magistrates' court may order him to permit to be done on the premises all things requisite for carrying into effect those provisions.
- (2) A person who fails to comply with an order of the court under this section commits a summary offence and is liable on conviction to a fine not exceeding £20 in respect of each day during which the failure continues.



**196 Power of court to authorise owner to execute works on default of another owner.**

- (1) If it appears to a magistrates' court, on the application of an owner of premises in respect of which a repair notice has been served, that owing to the default of another owner of the premises in executing works required to be executed, the interests of the applicant will be prejudiced, the court may make an order empowering the applicant forthwith to enter on the premises and execute the works within a period fixed by the order.
- (2) Where the court makes such an order, the court may, where it seems to the court just to do so, make a like order in favour of any other owner.
- (3) Before an order is made under this section, notice of the application shall be given to the local housing authority.

**197 Powers of entry.**

- (1) A person authorised by the local housing authority or the Secretary of State may at any reasonable time, on giving 24 hours' notice of his intention to the occupier, and to the owner if the owner is known, enter premises for the purpose of survey and examination—
  - (a) where it appears to the authority that survey or examination is necessary in order to determine whether any powers under this Part should be exercised in respect of the premises,
  - (b) where a repair notice has been served in respect of the premises, or
  - (c) in the case of premises which the authority are authorised by this Part to purchase compulsorily.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised.

**198 Penalty for obstruction.**

- (1) It is a summary offence to obstruct an officer of the local housing authority or of the Secretary of State, or a person authorised in pursuance of this Part to enter premises, in the performance of anything which that officer, authority or person is required or authorised by this Part to do.
- (2) A person who commits such an offence is liable on conviction to a fine not exceeding level 2 on the standard scale.

*Provisions for protection of owner and others*

**199 Recovery by lessee of proportion of cost of works.**

- (1) A lessee of a house who, or whose agent, incurs expenditure—
  - (a) in complying with a repair notice, or
  - (b) in defraying expenses incurred by the local housing authority under section 193 (execution of works by authority),may recover from the lessor under the lease such part (if any) of the expenditure as may be agreed between the parties or, in default of agreement, is determined by the county court to be just.

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- (2) The county court in making the determination shall have regard in particular to—
  - (a) the obligations of the lessor and the lessee under the lease with respect to the repair of the house,
  - (b) the length of the unexpired term of the lease, and
  - (c) the rent payable under the lease.
- (3) Where a person from whom a sum is recoverable under this section is himself a lessee of the house, the provisions of this section apply to that sum as they apply to expenditure of the kind mentioned in subsection (1).
- (4) This section does not apply to expenditure in respect of which a charging order is in force under section 200 (charging order in favour of owner executing works) or in respect of which an application for such an order is pending.

**200 Charging order in favour of owner executing works.**

- (1) Where an owner has completed, in respect of a house, works required to be executed by a repair notice, he may apply to the local housing authority for a charging order.
- (2) An applicant for a charging order shall produce to the authority—
  - (a) the certificate of the proper officer of the authority that the works have been executed to his satisfaction, and
  - (b) the accounts of and vouchers for the expenses of the works.
- (3) The authority, when satisfied that the owner has duly executed the required works and of the amount of the expenses, shall make an order accordingly charging on the premises an annuity to repay that amount together with the amount of the costs properly incurred in obtaining the charging order.
- (4) The annuity charged shall be at the rate of £6 for every £100 of the aggregate amount charged, shall commence from the date of the order and shall be payable for a term of 30 years to the owner named in the order, his executors, administrators or assigns.
- (5) A person aggrieved by the charging order may, within 21 days after notice of the order has been served upon him, appeal to the county court<sup>X</sup>; and where notice of appeal has been given no proceedings shall be taken under the order until the appeal is determined or ceases to be prosecuted.
- (6) The proper officer of the local housing authority shall file and record copies, certified by him to be true copies, of any charging order made under this section, the certificate given under subsection (2)(a) and the accounts as passed by the authority.

**201 Form, effect, &c. of charging orders.**

- (1) A charging order under section 200 shall be in such form as the Secretary of State may prescribe.
- (2) The charge created by such a charging order is a charge on the premises specified in the order having priority over all existing and future estates, interests and incumbrances, with the exception of—
  - (a) charges under section 229 (charge in favour of person executing works required by improvement notice);
  - (b) tithe rentcharge;

- (c) charges within section 1(1)(a) of the Local Land Charges Act 1975 (statutory charges in favour of public authorities); and
  - (d) charges created under any Act authorising advances of public money.
- (3) Charges under section 200 and section 229 (the corresponding provision in relation to improvement notices) take order as between themselves according to their respective dates.
- (4) The annuity created by a charging order may be recovered by the person for the time being entitled to it by the same means and in the like manner in all respects as if it were a rentcharge granted by deed out of the premises by the owner of the premises.
- (5) The benefit of the charge may be from time to time transferred in like manner as a mortgage or rentcharge may be transferred, and the transfer shall be in such form as the Secretary of State may (prescribe).
- (6) An owner of, or other person interested in, premises on which an annuity has been charged by a charging order under section 200 may at any time redeem the annuity on payment to the person entitled to the annuity of such sum as may be agreed upon, or in default of agreement, determined by the Secretary of State.

**202 Owner not in receipt of rents, &c. to receive notice of proceedings.**

If an owner of premises who is not the person in receipt of the rents and profits gives notice to the local housing authority of his interest in the premises, the authority shall give him notice of any proceedings taken by them in pursuance of this Part.

**203 Saving for rights arising from breach of covenant, &c.**

- (1) Nothing in this Part prejudices or interferes with the rights or remedies of an owner for breach of any covenant or contract entered into by a lessee in reference to premises in respect of which a repair notice is served.
- (2) If an owner is obliged to take possession of premises in order to comply with a repair notice the taking possession does not affect his right to avail himself of any such breach which occurred before he took possession.
- (3) No action taken under this Part prejudices or affects any remedy available to the tenant of a house against his landlord, either at common law or otherwise.

**204 Effect of approved proposals for re-development.**

Where the local housing authority have under section 308 (owner's re-development proposals) approved proposals for the re-development of land, no action shall be taken in relation to the land under this Part if and so long as the re-development is being proceeded with in accordance with the proposals and within the time limits specified by the authority, subject to any variation or extension approved by the authority.

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*Supplementary provisions*

**205 Application of provisions to parts of buildings and temporary or movable structures.**

The local housing authority may take the like proceedings under this Part in relation to—

- (a) any part of a building which is used, or is suitable for use as, a dwelling, or
- (b) a hut, tent, caravan or other temporary or movable structure which is used for human habitation and has been in the same enclosure for a period of two years next before action is taken,

as they are empowered to take in relation to a house.

**206 Repair at reasonable expense.**

In determining for the purposes of this Part whether premises can be rendered fit for human habitation at a reasonable expense, regard shall be had to the estimated cost of the works necessary to render them so fit and the value which it is estimated they will have when the works are completed.

**207 Minor definitions.**

In this Part—

“house” includes any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it;

“occupying tenant” has the same meaning, in relation to a dwelling which consists of, or forms part of, the house concerned, as it has in Part VII (improvement notices);

“owner” in relation to premises—

- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years;

“person having control”, in relation to premises, means the person who receives the rack-rent of the premises (that is to say, a rent which is not less than 2/3rds of the full net annual value of the premises), whether on his own account or as agent or trustee for another person, or who would so receive it if the house were let at such a rack-rent.

**208 Index of defined expressions: Part VI.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

district (of a local housing authority)	section 2(1)
fit for human habitation	section 604
house	sections 205 and 207

lease, lessee and lessor	section 621
local housing authority	section 1, 2(2)
occupying tenant	sections 207, 236(2)
owner	section 207
person having control	section 207
reasonable expense (in relation to repair)	section 206
repair notice	sections 189 and 190
standard scale (in reference to the maximum fine on summary conviction)	section 622
unfit for human habitation	section 604

## PART VII

### IMPROVEMENT NOTICES

#### *Improvement notices*

#### **209 General conditions for service of improvement notice.**

The general conditions for service of an improvement notice in respect of a dwelling are that the dwelling—

- (a) is without one or more of the standard amenities (whether or not it is also in a state of disrepair),
- (b) is capable at reasonable expense of improvement to the full standard or, failing that, to the reduced standard, and
- (c) was provided (by erection or by the conversion or a building already in existence) before 3rd October 1961.

#### **210 Service of provisional notice: dwellings in general improvement area or housing action area.**

(1) The local housing authority may serve a provisional notice on the person having control of a dwelling in—

- (a) general improvement area, or
- (b) housing action area,

if it appears to the authority that the general conditions for service of an improvement notice are met, but subject to subsection (2) if the dwelling is owner-occupied.

(2) The authority may only serve a provisional notice in respect of a dwelling which is owner-occupied if it appears to them that the circumstances are such that it is not reasonably practicable for another dwelling—

- (a) which is in the same building as, or is adjacent to, the owner-occupied dwelling, and

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- (b) which is not owner-occupied or in respect of which an application for an improvement grant, intermediate grant, special grant or repairs grant has been approved,

to be improved to the full standard or, as the case may be, to the reduced standard without effecting the improvement to one of those standards of the owner-occupied dwelling.

## **211 Acceptance of undertaking to do works.**

- (1) In any case where an improvement notice has not yet been served in respect of a dwelling falling within section 210 (certain dwellings in general improvement areas or housing action areas), the local housing authority may accept an undertaking from—

- (a) the person having control of the dwelling, or
- (b) any other person having an estate or interest in the dwelling.

to improve the dwelling to the full standard or, if in the opinion of the authority it is not practicable at reasonable expense for the dwelling to be improved to the full standard, to the reduced standard.

- (2) The undertaking shall be in writing and shall specify the works agreed to be carried out and the period, being a period ending not more than nine months after the date on which the undertaking is accepted, within which the works are to be carried out.

- (3) Before accepting an undertaking, the authority shall satisfy themselves that, if there is an occupying tenant—

- (a) the housing arrangements are satisfactory or none are required, and
- (b) the undertaking incorporates the written consent of the occupying tenant signed by him to the carrying out of the works specified in the undertaking.

and that the person giving the undertaking has a right to carry out the works specified in the undertaking as against all other persons having an estate or interest in the dwelling.

- (4) Where the authority accept an undertaking, they shall serve a notice to that effect on the person by whom the undertaking was given and shall not thereafter serve an improvement notice with respect to that dwelling unless—

- (a) the works specified in the undertaking are not carried out within the period so specified or such longer period as the authority may in writing allow, or
- (b) the authority are satisfied that, owing to a change of circumstances since the undertaking was accepted by them, the undertaking is unlikely to be fulfilled.

- (5) An authority who have accepted an undertaking may discharge it by serving notice of the discharge on the person by whom the undertaking was given, and they shall do so if at any time they consider that the general conditions for service of an improvement notice in respect of the dwelling are no longer met.

- (6) Where an authority serve a notice under subsection (4) or (5) on the person by whom an undertaking was given, they shall at the same time serve a copy of the notice on the person (if any) who is the occupying tenant of the dwelling at that time and on every other person who, to the knowledge of the authority, is an owner, lessee or mortgagee of the dwelling.

## **212 Service of provisional notice: other dwellings.**

- (1) An occupying tenant of a dwelling which—

- (a) is not in a general improvement area or a housing action area, and
- (b) is without one or more of the standard amenities (whether or not it is also in a state of disrepair), and
- (c) was provided (by erection or by the conversion of a building already in existence) before 3rd October 1961.

may make representations in writing to the local housing authority with a view to the exercise by the authority of their powers under this section.

- (2) The authority shall notify the person having control of the dwelling of any such representations made to them.
- (3) If on taking the representations into consideration the authority are satisfied that—
  - (a) the person making the representations is an occupying tenant of the dwelling in question,
  - (b) the general conditions for service of an improvement notice are met, and
  - (c) the dwelling ought to be improved to the full standard or, as the case may be, to the reduced standard and is unlikely to be so improved unless they exercise their powers under this section,

they shall either serve a provisional notice on the person having control of the dwelling or notify the occupying tenant of their decision not to do so and give him a written statement of their reasons for that decision.

- (4) The authority may serve a provisional notice under this section and take any further steps authorised under the following provisions of this Part notwithstanding that—
  - (a) the occupying tenant quits the dwelling, or
  - (b) the authority pass a resolution declaring an area in which the dwelling is situated to be a general improvement area or housing action area.

### **213 Provisional notice: contents and matters arising.**

- (1) A provisional notice is a notice—
  - (a) specifying the works which in the opinion of the local housing authority are required for the dwelling to be improved to the full standard or, as the case may be, to the reduced standard, and
  - (b) stating a date, not less than 21 days after the service of the notice, and time and place at which the authority's proposals for the carrying out of the works, any alternative proposals, any proposed housing arrangements, the views and interests of any occupying tenant and any other matters may be discussed.
- (2) The authority shall, not less than 21 days before the date so stated, in addition to serving the notice on the person having control of the dwelling, serve a copy of the notice on—
  - (a) any occupying tenant of the dwelling, and
  - (b) every other person who to the knowledge of the authority is an owner, lessee or mortgagee of the dwelling.
- (3) The person having control of the dwelling, any occupying tenant and every other person who is an owner, lessee or mortgagee of the dwelling are entitled to be heard when the authority's proposals are discussed in accordance with the notice.
- (4) After the service of a provisional notice and before taking any other action under the following provisions of this Part, the authority shall take into consideration all

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representations made on or before the occasion when their proposals with respect to the dwelling are discussed in accordance with the notice, and in particular any representations with respect to the nature of the works proposed by them for improving the dwelling or with respect to any proposed housing arrangements.

**214 Service of improvement notice: dwellings in general improvement area or housing action area.**

(1) If a local housing authority have served a provisional notice in respect of a dwelling under section 210(1) (dwellings in general improvement area or housing action area) and—

- (a) no undertaking has yet been accepted in respect of the dwelling under section 211, or
- (b) such an undertaking has been accepted but the case falls within subsection (4) (a) or (b) of that section (undertaking not carried out within allotted period or unlikely to be fulfilled),

the authority may, subject to the following provisions of this section, serve an improvement notice on the person having control of the dwelling.

(2) Before serving an improvement notice under this section the authority shall satisfy themselves—

- (a) that the dwelling continues to be in a general improvement area or a housing action area,
- (b) that the general conditions for service of an improvement notice in respect of the dwelling are still met,
- (c) that the dwelling is not for the time being owner-occupied or that the circumstances specified in section 210(2) apply or still apply in relation to it (circumstances in which provisional order may be served in respect of owner-occupied dwelling), and
- (d) that, if there is an occupying tenant, the housing arrangements are satisfactory or none are required or the tenant has unreasonably refused to enter into any such arrangements.

(3) An improvement notice may not be served—

- (a) by virtue of subsection (1)(a) (no undertaking accepted) more than nine months after the service of the provisional notice, or
- (b) by virtue of subsection (1)(b) (undertaking not fulfilled) more than six months after the expiry of the period specified in the undertaking, or such longer period as has been duly allowed by the authority, for the completion of the works.

(4) Where an authority serve an improvement notice under this section on the person having control of a dwelling, they shall at the time serve a copy of the notice on any occupying tenant of the dwelling and on every other person who, to the knowledge of the authority, is an owner, lessee or mortgagee of the dwelling,

(5) An improvement notice served under this section is a local land charge.

**215 Service of improvement notice: other dwellings.**

(1) Where the local housing authority have served a provisional notice in respect of a dwelling under section 212(1) (dwelling not in general improvement area or housing



action area), they may, at any time before the expiry of the period of twelve months beginning with the date on which the representations of the occupying tenant were received by them under that section, serve an improvement notice on the person having control of the dwelling.

- (2) Before serving an improvement notice under this section the authority shall satisfy themselves that—
  - (a) the general conditions for service of an improvement notice in respect of the dwelling are still met,
  - (b) the dwelling ought to be improved to the full standard or, as the case may be, to the reduced standard and is unlikely to be so improved unless the authority exercise their compulsory improvement powers, and
  - (c) the housing arrangements are satisfactory or none are required or the occupying tenant has unreasonably refused to enter into any housing arrangements.
- (3) Where an authority serve an improvement notice under this section on the person having control of a dwelling, they shall at the same time serve a copy of the notice on any occupying tenant of the dwelling and on every other person who, to the knowledge of the authority, is an owner, lessee or mortgagee of the dwelling.
- (4) An improvement notice served under this section is a local land charge.

## **216 Improvement notice: contents.**

- (1) An improvement notice shall—
  - (a) specify the works which in the opinion of the local housing authority are required to improve the dwelling to the full standard or, as the case may be, to the reduced standard,
  - (b) state the authority's estimate of the cost of carrying out the works, and
  - (c) require the person having control of the dwelling to carry out the works to the authority's satisfaction within the period of twelve months beginning with the date on which the notice becomes operative or such longer period as the authority may by permission in writing from time to time allow.
- (2) The works specified in the improvement notice may be different from the works specified in the provisional notice but shall not require the improvement of a dwelling to the full standard if the provisional notice specified works for improving the dwelling only to the reduced standard.
- (3) In an improvement notice which requires the improvement of a dwelling only to the reduced standard the authority may, if they think fit, substitute for the period of twelve months specified in subsection (1)(c) such shorter period as appears to them to be appropriate.

## **217 Appeals against improvement notices.**

- (1) Within six weeks from the service of an improvement notice on the person having control of the dwelling—
  - (a) that person,
  - (b) any occupying tenant of the dwelling, or
  - (c) any other person having an estate or interest in the dwelling,

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may appeal against the notice to the county court.

- (2) The grounds on which an appeal may be brought by any of those persons are—
- (a) that it is not practicable to comply with the requirements of the notice at reasonable expense;
  - (b) that the local housing authority have refused unreasonably to approve the execution of alternative works, or that the works specified in the notice are otherwise unreasonable in character or extent;
  - (c) that the dwelling is in a clearance area and it would be unreasonable for the authority to require the works specified in the notice to be carried out;
  - (d) that the dwelling is not, or is no longer, without one or more of the standard amenities;
  - (e) that, in a case where the notice requires the improvement of the dwelling to the full standard, the works specified in the notice are inadequate to secure that the dwelling will attain that standard;
  - (f) that some person other than the appellant will, as the holder of an estate or interest in the dwelling (whether or not that estate or interest entitles him to occupation), derive a benefit from the execution of the works and ought to pay the whole or part of the cost of executing the works;
  - (g) that the notice is invalid on the ground that a requirement of this Part has not been complied with or on the ground of some informality, defect or error in or in connection with the notice.
- (3) An appeal may also be brought—
- (a) by an owner-occupier on the ground that the local housing authority are in error in considering that the circumstances specified in section 210(2) (circumstances in which notice may be served in respect of owner-occupied dwelling) exist in relation to the dwelling;
  - (b) by an occupying tenant on the ground that the condition in section 214(2)(d) or 215(2)(c) (housing arrangements) is not fulfilled.
- (4) An improvement notice shall not be varied on appeal—
- (a) so as to extend the period within which the works specified in the notice are to be carried out, or
  - (b) so as to require the carrying out of works to improve a dwelling to the full standard if the works specified in the notice were works to improve the dwelling to the reduced standard, or
  - (c) so as to require the carrying out of works to improve a dwelling to the reduced standard if the works specified in the notice were works to improve the dwelling to the full standard;
- but, subject to that, on an appeal the court may make such order either confirming, quashing or varying the improvement notice as the court thinks fit.
- (5) Where an appeal is brought on the ground specified in subsection (2)(f) (other person benefiting from execution of works), the court may make such order as it thinks fit with respect to the payment to be made by the other person referred to in that paragraph to the appellant or, where by virtue of section 220 the works are carried out by the local housing authority, to the authority.
- (6) In so far as an appeal is based on the ground that the improvement notice is invalid, the court shall confirm the notice unless satisfied that the interests of the appellant have been substantially prejudiced by the facts relied on by him.

**218 Operative date and effect of improvement notice.**

- (1) If no appeal is brought an improvement notice becomes operative at the expiration of the period within which an appeal might have been brought.
- (2) If an appeal is brought, an improvement notice becomes operative, if and so far as it is confirmed by the county court on appeal or on appeal from the county court, on the final determination of the appeal.
- (3) For the purposes of subsection (2) the withdrawal of an appeal shall be deemed to be the final determination thereof, having the like effect as a decision confirming the notice or the decision appealed against .
- (4) An improvement notice is, subject to the right of appeal conferred by section 217, final and conclusive as to matters which could have been raised on such an appeal.

**219 Withdrawal of improvement notice.**

- (1) The local housing authority may, if they think fit, at any time withdraw an improvement notice by serving notice of the withdrawal on the person having control of the dwelling.
- (2) The authority shall serve a copy of any such notice on the occupier of the dwelling (if different from the person having control of it) and on every other person who, to the knowledge of the authority, is an owner, lessee or mortgagee of the dwelling.

*Enforcement*

**220 Power of local housing authority to execute works.**

- (1) If the works to be carried out in compliance with an improvement notice have not been carried out in whole or in part within the period for compliance, the local housing authority may themselves carry out so much of the works as has not been completed.
- (2) If before the expiry of the period for compliance the person who is for the time being the person having control of the dwelling notifies the local housing authority in writing that he does not intend, or is unable to do the works in question, the authority may, if they think fit, do the works before the expiry of that period.
- (3) If the local housing authority have reason to believe that the person who is for the time being the person having control of the dwelling does not intend or is unable to do the works in question in compliance with the notice—
  - (a) they may before the expiry of the period for compliance, but not earlier than six months after the date on which the notice becomes operative, serve on him a notice requiring him to furnish them, within 21 days of the service of the notice, with evidence of his intentions with respect to the carrying out of the works, and
  - (b) if, from evidence so furnished to them or otherwise, the authority are not satisfied that that person intends to carry out the works in compliance with the notice, they may, if they think fit, do the works before the expiry of the period for compliance.
- (4) Not less than 21 days before beginning to do the works the local housing authority shall serve notice of their intention on the occupier of the dwelling, the person having

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control of the dwelling and on every other person who, to the knowledge of the authority, is an owner, lessee or mortgagee of the dwelling.

- (5) in this section the “period for compliance” with an improvement notice is the period specified in the notice or such longer period as the local housing authority may by permission in writing have allowed.
- (6) The provisions of Schedule 10 apply with respect to the recovery by the local housing authority of expenses incurred by them under this section.

### **221 Power of court to order occupier or owner to permit things to be done.**

- (1) If a person, after receiving an improvement notice or a copy of an improvement notice—
  - (a) being the occupier of the premises, prevents the owner or person having control of the premises, or his officers, servants or agents, from carrying into effect with respect to the premises any of the provisions of this Part, or
  - (b) being the occupier, owner or person having control of the premises, prevents an officer, servant or agent of the local housing authority from so doing,a magistrates' court may order him to permit to be done on the premises all things requisite for carrying into effect those provisions.
- (2) A person who fails to comply with an order of the court under this section commits a summary offence and is liable on conviction to a fine not exceeding £20 in respect of each day during which the failure continues.

### **222 Powers of entry.**

- (1) A person authorised by the local housing authority may at any reasonable time, on giving 24 hours' notice of his intention to the occupier, and to the owner if the owner is known, enter premises for the purpose of survey and examination with a view to ascertaining whether the requirements of an improvement notice served, or undertaking accepted, under this Part has been complied with
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose for which the entry is authorised.

### **223 Penalty for obstruction.**

- (1) It is a summary offence to obstruct a person authorised in pursuance of section 222 to enter premises in the performance of anything which he is required or authorised under that section to do.
- (2) A person who commits such an offence is liable on conviction to a fine not exceeding level 2 on the standard scale.

### **224 Right of person having control as against others to carry out works.**

- (1) The person having control of any premises which consist of or include—
  - (a) a dwelling in a general improvement area or housing action area which is without all or any of the standard amenities, or

- (b) a dwelling in respect of which representations have been made by an occupying tenant under section 212 (representations to local housing authority with view to exercise of compulsory improvement powers),
- has, as against the occupying tenant of the dwelling and any other person having an estate or interest in the premises, the right to enter the premises in order to carry out any survey or examination required with a view to providing the dwelling with any of the standard amenities and, where appropriate, of putting it in good repair (disregarding internal decorative repair) having regard to its age and character and the locality in which it is situated.
- (2) On and after the date on which an improvement notice becomes operative, the person having control of the dwelling has the right, as against any occupying tenant of the dwelling and any other person having an estate or interest in the premises which consist of or include the dwelling, to take any reasonable steps for the purpose of complying with the improvement notice.
- (3) A person bound by an undertaking accepted under this Part has the right as against any occupying tenant of the dwelling to take any reasonable steps for the purpose of complying with the undertaking.
- (4) The carrying out of works in pursuance of an improvement notice or an undertaking accepted under this part shall not give rise to any liability on the part of a lessee to reinstate any premises at any time in the condition in which they were before the works were carried out, or to any liability for failure so to reinstate the premises.

## **225 Execution of works by local housing authority by agreement.**

- (1) The local housing authority may by agreement with a person having control of a dwelling or any other person having an estate or interest in a dwelling execute at his expense any works which he is required to carry out in the dwelling in pursuance of an improvement notice served or undertaking accepted under this Part.
- (2) For that purpose the authority have all such rights as that person would have as against any occupying tenant of the dwelling and any other person having an interest in the dwelling.

### *Provisions for protection of owners and others*

## **226 Owners, &c. not known to local housing authority may obtain copy of notices.**

Where under this Part a local housing authority are required to serve a copy of a notice on any person who, to their knowledge, is an owner, lessee or mortgagee of a dwelling, any person having an estate or interest in the dwelling who is not served with a copy of the notice is entitled, on application in writing to the authority, to obtain a copy of the notice.

## **227 Right to serve counter-notice requiring purchase.**

- (1) Where a local housing authority have served an improvement notice, the person having control of the dwelling may, by notice in writing served on the the authority at any time within the period of six months beginning with the date on which the improvement notice becomes operative, require the authority to purchase his interest in the dwelling in accordance with this section.

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- (2) Where the person having control of a dwelling serves a notice on the authority under subsection (1), the authority shall be deemed—
- (a) to be authorised under and for the purposes of Part II (provision of housing) to acquire his interest in the dwelling compulsorily, and
  - (b) to have served a notice to treat in respect of that interest on the date of the service of the notice under subsection (1);
- and the power conferred by section 31 of the Land Compensation Act 1961 to withdraw a notice to treat is not exercisable in the case of a notice to treat deemed to have been so served.
- (3) Within 21 days of the receipt of a notice under subsection (1) served by the person having control of a dwelling, the local housing authority shall notify every other person who, to their knowledge, is an owner, lessee or mortgagee of the dwelling or who is the occupier of it.

**228 Duty of local housing authority to offer loan to meet expenses of compulsory improvement.**

- (1) If a person who is liable—
- (a) to incur expenditure in complying with an improvement notice served, or undertaking accepted, under this Part, or
  - (b) to make a payment as directed by a court under section 217(5) (contribution from third party deriving benefit from execution of works),
- applies to the local housing authority for a loan, the authority shall, subject to the following provisions of this section, offer to enter into a contract with him for a loan by them to be secured by a mortgage of his interest in the dwelling concerned.
- (2) The application shall be made in writing within the period of three months beginning with the date on which the improvement notice becomes operative or the undertaking is accepted or the payment is to be made as directed by the court, or such longer period as the authority by permission given in writing may allow.
- (3) The authority shall not make an offer unless they are satisfied that the applicant can reasonably be expected to meet the obligations assumed by him in pursuance of this section in respect of the loan; and if the authority are not so satisfied as regards a loan of the amount applied for, they may, if they think fit, offer a loan of a smaller amount as regards which they are so satisfied.
- (4) The authority shall not make an offer unless they are satisfied—
- (a) that the applicant's interest in the dwelling concerned is an estate in fee simple absolute in possession or an estate for a term of years which will not expire before the date for final repayment of the loan, and
  - (b) that, according to a valuation made on their behalf, the amount of the principal of the loan does not exceed the value which it is estimated that the mortgaged security will bear after improvement of the dwelling to the full standard or, as the case may be, to the reduced standard.
- (5) The contract shall contain a condition to the effect that if—
- (a) an improvement grant or intermediate grant become payable in respect of the expenditure in question, or
  - (b) such a grant becomes payable partly in respect of that expenditure and partly in respect of other expenditure or another payment,

the authority shall not be required to lend more than the amount of the expenditure or payment remaining after deducting the grant or, as the case may be, that part of the grant which in the opinion of the authority is attributable to that expenditure or payment.

- (6) The contract offered by the authority shall require proof of title and contain such other reasonable terms as the authority may specify in their offer, and in particular may provide for the advance to be made by instalments as the works progress.
- (7) The rate of interest payable on the loan shall be such as the Secretary of State may direct, either generally or in any particular case; and the Secretary of State may, if he thinks fit, give directions, either generally or in any particular case, as to the time within which a loan under this section, or any part of such a loan, is to be repaid.

## **229 Charging order in favour of person executing works.**

- (1) Where the person having control of a dwelling has completed in respect of the dwelling works required to be executed by an improvement notice, he may apply to the local housing authority for a charging order.
- (2) An applicant for a charging order shall produce to the authority—
  - (a) the certificate of the proper officer of the authority that the works have been executed to his satisfaction, and
  - (b) the accounts of and vouchers for the expenses of the works.
- (3) The authority, when satisfied that the applicant has duly executed the required works and of the amount of the expenses, shall make an order accordingly charging on the premises an annuity to repay that amount together with the amount of the costs properly incurred in obtaining the charging order.
- (4) The annuity charged shall be at the rate of £6 for every £100 of the aggregate amount charged, shall commence from the date of the order and shall be payable for a term of 30 years to the person named in the order, his executors, administrators or assigns.
- (5) A person aggrieved by a charging order may, within 21 days after notice of the order has been served on him, appeal to the county court<sup>X</sup>; and where notice of such an appeal has been given no proceedings shall be taken under the order until the appeal is determined or ceases to be prosecuted.
- (6) The proper officer of the local housing authority shall file and record copies, certified by him to be true copies, of any charging order made under this section, the certificate given under subsection (2)(a) and the accounts as passed by the authority.

## **230 Form, effect, &c. of charging order.**

- (1) A charging order under section 229 shall be in such form as the Secretary of State may prescribe.
- (2) The charge created by such a charging order shall be a charge on the premises specified in the order having priority over all existing and future estates, interests and incumbrances, with the exception of—
  - (a) charges under section 200 (charge in favour of person executing works required by repair notice),
  - (b) tithe rentcharge,

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- (c) charges within section 1(1)(a) of the Local Land Charges Act 1975 (statutory charges in favour of public authorities), and
  - (d) charges created under any Act authorising advances of public money.
- (3) Charges under section 229 and section 200 (the corresponding provision in relation to repair notices) take order as between themselves according to their respective dates.
- (4) The annuity created by a charging order may be recovered by the person for the time being entitled to it by the same means and in the like manner in all respects as if it were a rentcharge granted by deed out of the premises by the owner of the premises.
- (5) The benefit of the charge may be from time to time transferred in like manner as a mortgage or rentcharge may be transferred, and the transfer shall be in such form as the Secretary of State may prescribe.
- (6) An owner of, or other person interested in, premises on which an annuity has been charged by a charging order under section 229 may at any time redeem the annuity on payment to the person entitled to the annuity of such sum as may be agreed upon, or in default of agreement determined by the Secretary of State.

*Miscellaneous*

**231 Modifications of the Agricultural Holdings Act 1948.**

- (1) Section 9 of the Agricultural Holdings Act 1948 (increase of rent for improvements carried out by landlord) applies to improvements carried out in compliance with an improvement notice or an undertaking accepted under this Part as it applies to improvements carried out at the request of the tenant; but where a tenant has contributed to the cost incurred by his landlord in carrying out the improvement, the increase in rent provided for by that section shall be reduced proportionately.
- (2) Works carried out in compliance with an improvement notice or an undertaking accepted under this Part shall be included among the improvements specified in paragraph 8 of Schedule 3 to the Agricultural Holdings Act 1948 (tenant's right to compensation for erection, alteration or enlargement of buildings); but subject to the power conferred by section 78 of that Act to amend that Schedule.
- (3) Section 49 of the Agricultural Holdings Act 1948 (tenant's right to compensation conditional on landlord consenting to the carrying out of the improvements) does not apply to works carried out in compliance with an improvement notice or an undertaking accepted under this Part.
- (4) Where a person other than the tenant claiming compensation has contributed to the cost of carrying out works in compliance with an improvement notice or an undertaking accepted under this Part, compensation in respect of the works, as assessed under section 48 of the Agricultural Holdings Act 1948, shall be reduced proportionately.

**232 Exclusion of dwellings controlled by Crown or a public authority.**

- (1) No provisional notice or improvement notice may be served in respect of a dwelling in which there is a Crown or Duchy interest except with the consent of the appropriate authority; but if that consent is given this Part applies as to a dwelling in which there is no such interest.



- (2) No provisional notice or improvement notice may be served in respect of a dwelling if the person having control of the dwelling is—
- a local authority,
  - a new town corporation,
  - the Development Board for Rural Wales,
  - the Housing Corporation,
  - a registered housing association, or
  - a housing trust which is a charity.
- (3) If after a provisional notice or improvement notice has been served in respect of a dwelling—
- (a) in the case of a dwelling in which there is a Crown or Duchy interest, the appropriate authority becomes the person having control of the dwelling, or
  - (b) any such body as is mentioned in subsection (2) becomes the person having control of the dwelling,
- the notice, and any undertaking accepted under this Part with respect to the dwelling, shall cease to have effect.
- (4) Where an improvement notice ceases to have effect by virtue of subsection (3), the body which or person who has become the person having control of the dwelling shall notify the officer who registered the notice in the register of local land charges and furnish him with all information required by him for the purpose of cancelling the registration.
- (5) In this section “Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, and “the appropriate authority” means—
- (a) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;
  - (b) in relation to land belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate, the government department having the management of the land;
  - (c) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
  - (d) in relation to land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints,
  - (e) in relation to land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that department;
- and if any question arises as to what authority is the appropriate authority in relation to any land, the question shall be referred to the Treasury whose decision shall be final.
- (6) In this section “local authority” includes—
- a parish or community council,
  - the trustees of the Honourable Society of the Inner Temple,
  - the trustees of the Honourable Society of the Middle Temple, and
  - the police authority for any police area,
- and any joint board or joint committee all the constituent members of which are local authorities for the purposes of this section.

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**233 Effect of area ceasing to be general improvement area or or housing action area.**

If, after an undertaking has been accepted under this Part in respect of a dwelling or an improvement notice has been served in respect of a dwelling under section 214 (dwelling in general improvement area or housing action area)—

- (a) the general improvement area or housing action area in which the dwelling is situated ceases to be such an area, or
- (b) the land on which the dwelling is situated is excluded from such an area,

the provisions of this Part continue to apply in relation to the undertaking or notice as if the dwelling continued to be in a general improvement area or housing action area declared by the authority by whom the undertaking was accepted or the notice served.

*Supplementary provisions*

**234 Meaning of “full standard” and “reduced standard”.**

- (1) For the purposes of this Part a dwelling shall be taken to attain the full standard if the following conditions are met—
  - (a) it is provided with all the standard amenities for the exclusive use of its occupants;
  - (b) it is in reasonable repair (disregarding the state of internal decorative repair) having regard to its age and character and the locality in which it is situated;
  - (c) it conforms with such requirements with respect to thermal insulation as may be specified by the Secretary of State for the purposes of this section;
  - (d) it is in all other respects fit for human habitation;
  - (e) it is likely to be available for use as a dwelling for a period of 15 years or such other period as may be specified by the Secretary of State for the purposes of this section.
- (2) The local housing authority may (subject to subsection (3)) dispense wholly or in part with any of the conditions in subsection (1), and a dwelling shall be taken to attain the reduced standard if those conditions are met so far as not dispensed with.
- (3) The authority shall not dispense with the condition specified in subsection (1)(a) (standard amenities) where they are satisfied that the dwelling is, or forms part of, a house or building in respect of which they could by notice under section 352 (houses in multiple occupation: power to require execution of works to render premises fit for number of occupants) require the execution of such works as are referred to in that section.

**235 Meaning of “housing arrangements”.**

In this Part “housing arrangements” means arrangements—

- (a) making provision for the housing of an occupying tenant of a dwelling and his household during the period when improvement works are being carried out, or after the completion of the works, or during that period and after completion of the works (and for any incidental or ancillary matters), and
- (b) contained in a written agreement to which the occupying tenant and either his landlord or the local housing authority, or both, are parties.

## **236 Meaning of “person having control” and “occupying tenant”.**

- (1) References in this Part to the person having control of a dwelling shall be construed as follows—
- (a) if the dwelling is owner-occupied, the person having control of it is the owner-occupier;
  - (b) if there is an occupying tenant of the dwelling who is a person employed in agriculture (as defined in section 17(1) of the Agricultural Wages Act 1948) and who occupies or resides in the dwelling as part of the terms of his employment, the person having control of the dwelling is the employer or other person by whose authority the occupying tenant occupies or resides in the dwelling;
  - (c) in any other case, the person having control of the dwelling is the person who is either the owner of it or the lessee of it under a long tenancy and whose interest in the dwelling is not in reversion on that of another person who has a long tenancy.
- (2) In this Part “occupying tenant”, in relation to a dwelling, means a person (other than an owner-occupier) who—
- (a) occupies or is entitled to occupy the dwelling as a lessee; or
  - (b) is a statutory tenant of the dwelling; or
  - (c) occupies the dwelling as a residence under a restricted contract; or
  - (d) is employed in agriculture (as defined in section 17(1) of the Agricultural Wages Act 1948) and occupies or resides in the dwelling as part of his terms of employment.

## **237 Minor definitions.**

In this Part—

“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;

“improvement” includes alteration and enlargement and, so far as also necessary to enable a dwelling to reach the full standard or the reduced standard, repair, and “improved” shall be construed accordingly;

“long tenancy” has the same meaning as in Part I of the Leasehold Reform Act 1967;

“owner”, in relation to a dwelling, means the person who otherwise than as a mortgagee in possession, is for the time being entitled to dispose of the fee simple in the dwelling;

“owner-occupier”, in relation to a dwelling, means the person who, as owner or as lessee under a long tenancy, occupies or is entitled to occupy the dwelling, and “owner-occupied” shall be construed accordingly;

“standard amenities” has the same meaning as in Part XV (improvement grants, &c.).

## **238 Index of defined expressions: Part VII.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

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charity	section 622
clearance area	section 289(1)
dwelling	section 237
full standard	section 234(1)
general conditions for service of improvement notice	section 209
general improvement area	section 253
housing action area	section 239
housing arrangements	section 235
housing association	section 5(1)
housing trust	section 6
improvement (and improved)	section 237
improvement notice	section 216
lessee	section 621
local authority	section 4(e)
local housing authority	sections 1, 2(2)
long tenancy	section 237
new town corporation	section (4)(b)
occupying tenant	section 236(2)
owner	section 237
owner-occupier (and owner-occupied)	section 237
person having control	section 236(1)
provisional notice	section 213
reduced standard	section 234
registered (in relation to a housing association)	section 5(4)
restricted contract	section 622
standard amenities	sections 237 and 508
standard scale (in reference to the maximum fine on summary conviction)	section 622
statutory tenant	section 622

## PART VIII

### AREA IMPROVEMENT

#### *Housing action areas*

#### **239 Declaration of housing action area.**

- (1) Where a report with respect to an area within their district consisting primarily of housing accommodation is submitted to the local housing authority by a person appearing to the authority to be suitably qualified (who may be an officer of the authority), and the authority, upon consideration of the report and of any other information in their possession, are satisfied, having regard to—
  - (a) the physical state of the housing accommodation in the area as a whole, and
  - (b) social conditions in the area,that the requirement mentioned in subsection (2) is fulfilled with respect to the area, they may cause the area to be defined on a map and by resolution declare it to be a housing action area.
- (2) The requirement is that the living conditions in the area are unsatisfactory and can most effectively be dealt with within a period of five years so as to secure—
  - (a) the improvement of the housing accommodation in the area as a whole,
  - (b) the well-being of the persons for the time being resident in the area, and
  - (c) the proper and effective management and use of that accommodation,by declaring the area to be a housing action area.
- (3) In considering whether to take action under this section the local housing authority shall have regard to such guidance as may from time to time be given by the Secretary of State, either generally or with respect to a particular authority or description of authority or in any particular case, with regard to the identification of areas suitable to be declared housing action areas.
- (4) An area which is declared to be a housing action area shall be such an area for the period of five years beginning with the date on which the resolution is passed, subject to—
  - (a) section 241(2)(a) (power of Secretary of State to overrule declaration),
  - (b) section 250(1)(b) (power of local housing authority to terminate housing action area), and
  - (c) section 251 (extension of duration of housing action area).
- (5) A resolution declaring an area to be a housing action area is a local land charge.

#### **240 Steps to be taken after declaration of housing action area.**

- (1) As soon as may be after passing a resolution declaring an area to be a housing action area the local housing authority shall take the following steps.
- (2) They shall publish in two more more newspapers circulating in the locality (of which one at least shall, if practicable, be a local newspaper) a notice of the resolution—
  - (a) identifying the area, and

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- (b) naming a place where a copy of the resolution, a map on which the area is defined and of the report referred to in section 239 may be inspected at all reasonable times.
- (3) They shall take such further steps as appear to them best designed to secure—
  - (a) that the resolution and the obligations imposed by section 247 (duty to notify local housing authority of changes of ownership or occupation of land) are brought to the attention of persons residing or owning property in the area, and
  - (b) that those persons are informed of the name and address of the person to whom should be addressed inquiries and representations concerning action to be taken with respect to the area or concerning the obligations imposed by that section.
- (4) They shall send to the Secretary of State—
  - (a) a copy of the resolution, the map and a copy of the report mentioned in section 239(1),
  - (b) a statement of the numbers of dwellings, houses in multiple occupation and hostels in the area, and
  - (c) a statement, containing such information as the Secretary of State may for the time being require, either generally or with respect to a particular authority or description of authority or in any particular case, showing the basis on which the authority satisfied themselves, having regard to the matters mentioned in section 239(1) and any relevant guidance under section 239(3), that the area was suitable to be a housing action area.
- (5) They shall also send to the Secretary of State a statement of their proposals, whether general or specific, for the participation of registered housing associations in dealing with living conditions in the area.

**241 Functions of Secretary of State with respect to declaration of housing action area.**

- (1) When a local housing authority have declared an area to be a housing action area and have sent to the Secretary of State the documents referred to in section 240(4), he shall send them a written acknowledgement of the receipt of those documents.
- (2) If it appears to the Secretary of State appropriate to do so, he may, at any time within the period of 28 days beginning with the day on which he sent the acknowledgement, notify the authority—
  - (a) that the area declared by them to be a housing action area is no longer to be such an area, or
  - (b) that land defined on a map accompanying the notification is to be excluded from the area,
 or notify them that he requires more time to consider their declaration of the area as a housing action area.
- (3) Where the Secretary of State notifies an authority that he requires more time, he may direct the authority to send him such further information and documents as are specified in the direction; and on completion of his consideration of the matter, he shall either—
  - (a) notify the authority as mentioned in subsection (2)(a) or (b), or
  - (b) notify them that he proposes to take no further action with respect to their declaration.

- (4) Where the Secretary of State notifies the authority as mentioned in subsection (2)(a) or (b) (whether under that subsection or under subsection (3)), the area concerned shall cease to be a housing action area or, as the case may be, the land concerned shall be excluded from the housing action area, with effect from the date on which the authority is so notified.
- (5) The authority shall, as soon as may be after the receipt of the notification, publish in two or more newspapers circulating in the locality (of which one at least shall, if practicable, be a local newspaper) a notice—
  - (a) stating the effect of the Secretary of State’s notification, and
  - (b) naming a place where a copy of the notification and, in the case of a notification excluding land from the area, a copy of the amended map of the housing action area, may be inspected at all reasonable times,and take such further steps as may appear to them best designed to secure that the effect of the notification is brought to the attention of persons residing or owning property in the area declared by them to be a housing action area.

#### **242 Incorporation into housing action area of land comprised in general improvement area.**

- (1) If a local housing authority propose to declare as a housing action area an area which consists of or includes land which is comprised in a general improvement area, they shall indicate on the map referred to in section 239(1) the land which is so comprised.
- (2) With effect from the date on which the resolution is passed declaring such an area to be a housing action area, the land so indicated shall be deemed to have been excluded from the general improvement area or, as the case may be, to have ceased to be such an area by virtue of a resolution under section 258 passed on that date, but subject to the following provisions.
- (3) If the Secretary of State notifies the local housing authority in accordance with section 241 that the area declared by them to be a housing action area is no longer to be such an area, subsection (2) shall be treated as never having applied in relation to land in that area.
- (4) If the Secretary of State notifies the local housing authority in accordance with section 241 that any land within the area declared by the authority to be a housing action area is to be excluded from the housing action area, subsection (2) shall be treated as never having applied in relation to land so excluded.

#### **243 General powers of local housing authority.**

- (1) Where a local housing authority have declared an area to be a housing action area, they may, for the purpose of securing or assisting in securing all or any of the objectives specified in section 239(2)(a) to (c) exercise the following powers.
- (2) They may acquire by agreement, or be authorised by the Secretary of State to acquire compulsorily, land in the area on which there are premises consisting of or including housing accommodation.
- (3) They may undertake on land so acquired all or any of the following activities—
  - (a) the provision of housing accommodation (by the construction, conversion or improvement of buildings, or otherwise);

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- (b) the carrying out of works for the improvement or repair of housing accommodation (including works to the exterior, or on land within the curtilage, of buildings containing housing accommodation);
- (c) the management of housing accommodation;
- (d) the provision of furniture, fittings or services in or in relation to housing accommodation.

(4) If after—

- (a) the authority have entered into a contract for the acquisition of land under subsection (2), or
- (b) a compulsory purchase order authorising the acquisition of land under that subsection has been confirmed,

the housing action area concerned ceases to be such an area or the land is excluded from the area, the provisions of that subsection continue to apply as if the land continued to be in a housing action area.

#### **244 Environmental works.**

- (1) For the purpose of improving the amenities in a housing action area, the local housing authority may—
  - (a) carry out environmental works on land belonging to them, and
  - (b) give assistance towards the carrying out of environmental works by others.
- (2) Assistance under subsection (1)(b) may be given to any person having an interest in the land in question and may consist of all or any of the following—
  - (a) a grant in respect of expenditure which appears to the authority to have been properly incurred in carrying out the works;
  - (b) the provision of materials for the carrying out of the works;
  - (c) the execution of the works, by agreement with the person concerned, either at his expense or at the authority's expense or partly at his expense and partly at the authority's expense.
- (3) No such assistance shall be given towards works in respect of which an application for an improvement grant, intermediate grant, special grant or repairs grant has been approved.
- (4) Where the assistance takes the form of a grant, it may be paid—
  - (a) after completion of the works, or
  - (b) in part by instalments as the works progress and the balance after completion of the works;

but where part is paid by instalments the aggregate amount of the instalments paid at any time whilst the works are in progress shall not exceed one-half of the cost of the works executed up to that time.
- (5) In this section “environmental works” means any works other than works to the interior of housing accommodation.

#### **245 Contributions by Secretary of State.**

- (1) The Secretary of State may pay contributions to a local housing authority towards such expenditure incurred by them under section 244 (environmental works) as he may determine.



- (2) The contributions shall be annual sums—
- (a) payable in respect of a period of 20 years beginning with the financial year in which the expenditure towards which the contribution is made is incurred, and
  - (b) equal to one-half of the annual loan charges referable to that expenditure, that is to say, the annual sum that, in the opinion of the Secretary of State, would fall to be paid by the local housing authority for the repayment of principal and the payment of interest on a loan of an amount equal to the expenditure repayable over that period.
- (3) The aggregate of the expenditure towards which such contributions may be made with respect to a housing action area shall not exceed the sum arrived at by multiplying—
- (a) £400, by
  - (b) the number of dwellings, houses in multiple occupation and hostels stated by the local housing authority under section 240(4)(b) to be in the area ;
- but two adjoining housing action areas may for this purpose be treated as one.
- (4) The Secretary of State may, with the consent of the Treasury—
- (a) by order substitute in subsections (2) and (3) another fraction for one-half and another amount for £400
  - (b) direct that those subsections shall have effect, in the case of a housing action area specified in the direction or of a description so specified, with the substitution of a higher fraction or a greater amount than that for the time being specified in the subsection.
- (5) An order under subsection (4)(a)—
- (a) may make different provision with respect to different cases or descriptions of case, 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 the House of Commons.

#### **246 Duty to publish information.**

Where a local housing authority have declared an area to be a housing action area, they shall bring to the attention of persons residing or owning property in the area—

- (a) the action they propose to take in relation to the housing action area, and
- (b) the assistance available for the improvement of the housing accommodation in the area,

by publishing from time to time, in such manner as appears to them appropriate, such information as is in their opinion best designed to further the purpose for which the area was declared a housing action area.

#### **247 Changes of ownership or occupation of land to be notified to local housing authority.**

- (1) This section—
- (a) applies to land in a housing action area which consists of or includes housing accommodation, and
  - (b) comes into operation in relation to a housing action area at the end of the period of four weeks beginning with the date on which the housing action area is declared.

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- (2) Where notice to quit is served in respect of land to which this section applies on a tenant who occupies as a dwelling the whole or part of the land, the landlord by whom, or on whose behalf, the notice was served shall, within the period of seven days beginning with the date on which the notice was served, notify the local housing authority that the notice has been served.
- (3) Where a tenancy of land to which this section applies is about to expire by effluxion of time, the person who is the landlord under the tenancy shall, not less than four weeks before the tenancy does so expire, notify the local housing authority that the tenancy is about to expire.
- (4) A person who carries out a disposal of land to which this section applies, other than a disposal excepted by subsection (5), shall notify the local housing authority, not less than four weeks or more than six months before the date of the disposal, that the disposal is about to take place.
- (5) Subsection (4) does not apply to—
  - (a) a disposal by a person who, throughout the period of six months ending on the date of the disposal has been continuously in exclusive occupation (with or without members of his household) of the land to which the disposal relates;
  - (b) a disposal to which the local housing authority are a party;
  - (c) the grant of a protected tenancy or protected occupancy or the entering into of a restricted contract;
  - (d) the grant or assignment of a lease (of land or an interest in land) for a term which expires within the period of five years and three months beginning on the date of the grant of the lease, where neither the lease nor any other instrument or contract confers on the lessor or the lessee an option (however expressed) to renew or extend the term so that the new or extended term would continue beyond the end of that period;
  - (e) the grant of an estate or interest by way of security for a loan;
  - (f) a conveyance of an estate or interest which gives effect to a contract to convey that estate or interest which was duly notified to the local housing authority in accordance with subsection (4).
- (6) When the local housing authority receive notification from a person under this section with respect to any land they shall—
  - (a) send him, as soon as practicable, written acknowledgement of the receipt of the notification, stating the date on which it was received, and
  - (b) inform him, within the period of four weeks beginning with that date, of what action, if any, they propose to take with respect to that land as a result of the notification.

#### **248 Form and contents of notification under s. 247.**

- (1) A notification under section 247 shall be in writing and contain the information required by this section.
- (2) Every notification shall contain—
  - (a) the name and address of the person by whom it is given,
  - (b) the address of, and any further information necessary to identify, the land to which it relates, and

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- (c) the estate or interest in that land which the person by whom it is given has at the time it is given.
- (3) The reference in subsection (2)(a) to a person's address is to his place of abode or place of business or, in the case of a company, to its registered office.
- (4) To the extent that it is capable of being given by reference to a plan accompanying the notification, the information required by subsection (2)(b) may be so given.
- (5) A notification required by section 247(2) or (3) (notice to quit or impending expiry of tenancy) shall specify—
  - (a) whether the tenancy concerned is periodic or for a term certain,
  - (b) the length of the period or term, and
  - (c) the date on which the tenancy will come to an end (by virtue of the service of the notice to quit or by effluxion of time);and in the case of a notification required by section 247(2) the landlord may also, if he considers it appropriate, give his reason for serving notice to quit.
- (6) A notification required by section 247(4) (disposal of land) shall specify—
  - (a) whether at the time the notification is given the person giving it intends to retain an estate or interest in the land, and
  - (b) if he does, the nature of that estate or interest and the land in which he intends that it should subsist.

#### **249 Penalty for failure to notify, &c.**

- (1) A person who—
  - (a) fails without reasonable excuse to comply with an obligation imposed on him by section 247(2) or (3), or
  - (b) without reasonable excuse carries out a disposal of land without having complied with the obligation imposed on him by section 247(4), or
  - (c) in purporting to comply with an obligation imposed on him by section 247 knowingly or recklessly furnishes a notification which is false in a material particular, or
  - (d) knowingly or recklessly omits from any such notification any information required to be contained in it by virtue of any provision of section 248,commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.
- (2) The commission by a person of an offence under subsection (1) does not affect—
  - (a) in the case of a notification required by section 247(2) or (3) (notice to quit or expiry of tenancy), the date on which the tenancy expires;
  - (b) in the case of a notification required by section 247(4) (disposal of land), the validity of the disposal.

#### **250 Exclusion of land from, or termination of, housing action area.**

- (1) The local housing authority may by resolution—
  - (a) exclude land from a housing action area, or
  - (b) declare that an area shall cease to be a housing action area on the date on which the resolution is passed;

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and as soon as may be after passing such a resolution the authority shall take the following steps.

- (2) They shall send a copy of the resolution to the Secretary of State.
- (3) They shall publish in two or more newspapers circulating in the locality (of which one at least shall, if practicable, be a local newspaper) a notice of the resolution—
  - (a) in the case of a resolution excluding land from a housing action area, identifying the housing action area concerned and the land excluded from it.
  - (b) in the case of a resolution declaring that an area is no longer to be a housing action area, naming a place at which a copy of the resolution may be inspected at all reasonable times.
- (4) They shall take such further steps as may appear to the authority best designed to secure that the resolution is brought to the attention of persons residing or owning property in the housing action area.

#### **251 Extension of duration of housing action area.**

- (1) The local housing authority may by resolution extend the duration of a housing action area by a period of two years, and may do so more than once.
- (2) Written notification of the passing of the resolution must be given by the authority to the Secretary of State at least three months before the date on which the housing action area would otherwise cease to exist.
- (3) On receipt of a notification under subsection (2) the Secretary of State shall send a written acknowledgement to the authority.
- (4) If it appears to the Secretary of State appropriate to do so, he may, at any time within the period of 28 days beginning with the day on which he sent the acknowledgement, notify the authority—
  - (a) that the duration of the housing action area is not to be extended in accordance with their resolution, or
  - (b) that he requires more time to consider their extension of the duration of the housing action area.
- (5) Where the Secretary of State notifies an authority that he requires more time, he shall on completion of his consideration of the matter notify the authority—
  - (a) that the duration of the housing action area is not to be extended in accordance with their resolution,
  - (b) where the extension has already begun to run, that the area is to cease to be a housing action on such date as may be specified in the notification, or
  - (c) that he proposes to take no further action with respect to their resolution.
- (6) As soon as may be after passing a resolution or receiving a notification from the Secretary of State under this Section (other than a notification that he proposes to take no further action), the local housing authority shall—
  - (a) publish in two or more newspapers circulating in the locality (of which at least one shall, if practicable, be a local newspaper) a notice of the resolution or, as the case may be stating the effect of the notification, naming a place where a copy of the resolution or notification may be inspected at all reasonable times, and

- (b) take such further steps as appear to the authority best designed to secure that the resolution or notification is brought to the attention of persons residing or owning property in the housing action areas concerned.

## **252 Meaning of “housing accommodation” and related expressions.**

In the provisions of this Part relating to housing action areas—

- (a) “housing accommodation” means dwellings, houses in multiple occupation and hostels;
- (b) “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 or usually enjoyed with that building or part; and
- (c) “house in multiple occupation” means a house which is occupied by persons who do not form a single household, exclusive of any part the house which is occupied as a separate dwelling by persons who do form a single household.

### *General improvement areas*

## **253 Declaration of general improvement area.**

- (1) Where a report with respect to a predominantly residential area within their district is submitted to the local housing authority by a person appearing to the authority to be suitably qualified (who may be an officer of the authority), and it appears to the authority, upon consideration of the report and of any other information in their possession—
  - (a) that living conditions in the area can most appropriately be improved by the improvement of the amenities of the area or of dwellings in the area, or both, and
  - (b) that such an improvement may be effected or assisted by the exercise of their powers under the provisions of this Part relating to general improvement areas,the authority may cause the area to be defined on a map and by resolution declare it to be a general improvement area.
- (2) A general improvement area may not be defined so as to include, but may be defined so as to surround, land which is comprised in a housing action area.
- (3) A general improvement area may not (unless the land has been cleared of buildings) be so defined as to include, but may be so defined as to surround—
  - (a) land comprised in a clearance area,
  - (b) land purchased by the local housing authority under section 290(2) (land surrounded by or adjoining clearance area), or
  - (c) land included in a clearance area under section 293(1) (local housing authority’s own property);

and where the Secretary of State on confirming a compulsory purchase order under Schedule 22 (acquisition of land for clearance) modifies the order by excluding from a clearance area land adjoining a general improvement area, the land shall, unless the Secretary of State otherwise directs, be taken to be included in the general improvement area.

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**254 Steps to be taken after declaration.**

- (1) As soon as may be after passing a resolution declaring an area to be a general improvement area the local housing authority shall take the following steps.
- (2) They shall publish in two or more newspapers circulating in the locality (of which one at least shall, if practicable, be a local newspaper) a notice of the resolution—
  - (a) identifying the area, and
  - (b) naming the place where a copy of the resolution, of the map on which the area is defined and of the report mentioned in section 253(1) may be inspected at all reasonable times.
- (3) They shall take such further steps as appear to them best designed to secure—
  - (a) that the resolution is brought to the attention of persons residing or owning property in the area, and
  - (b) that those persons are informed of the name and address of the person to whom enquiries and representations should be addressed concerning action to be taken in the exercise of the authority's powers under the provisions of this Part relating to general improvement areas.
- (4) They shall send to the Secretary of State a copy of the resolution, of the report and of the map and a statement of the number of dwellings in the area.

**255 General powers of local housing authority.**

- (1) Where a local housing authority have declared an area to be a general improvement area, they may, for the purpose of effecting or assisting the improvement of the amenities of the area, or of the dwellings in the area, or both—
  - (a) carry out works on land owned by them and assist (by grants, loans or otherwise) in the carrying out of works on land not owned by them,
  - (b) acquire any land by agreement, and
  - (c) let or otherwise dispose of land for the time being owned by them;and may be authorised by the Secretary of State to acquire compulsorily land within the general improvement area or adjoining it.
- (2) The authority may not under this section—
  - (a) improve a dwelling which has not been acquired or provided by them in pursuance of this section, or
  - (b) make a grant towards the cost of works in a case where an improvement grant, intermediate grant, special grant or repairs might be made under Part XV.

**256 Power to apply for orders extinguishing right to use vehicles on highway.**

- (1) A local housing authority who have declared a general improvement area may exercise the powers of a local planning authority under section 212 of the Town and Country Planning Act 1971 (extinguishment of right to use vehicles on certain highways) with respect to a highway in that area notwithstanding that they are not the local planning authority, but subject to the following provisions.
- (2) The local housing authority shall not make an application under subsection (2) or (8) of that section (application to Secretary of State to make or revoke order extinguishing right to use vehicles) except with the consent of the local planning authority.

- (3) If the local housing authority are not also the highway authority, any such application made by them shall in the first place be sent to the highway authority who shall transmit it to the Secretary of State.
- (4) Where an order under subsection (2) of that section (order extinguishing right to use vehicles) has been made on an application made by a local housing authority by virtue of this section—
  - (a) any compensation under subsection (5) of that section (compensation for loss of access to highway) is payable by them instead of by the local planning authority, and
  - (b) they may exercise their powers as the competent authority under section 213 of that Act (provision of amenities for highway reserved to pedestrians) without the consent to the local planning authority.

**257 Duty to publish information.**

Where a local housing authority have declared an area to be a general improvement area, they shall bring to the attention of persons residing in the area or owning property in it—

- (a) the action they propose to take in the exercise of their powers under the provisions of this Part relating to general improvement areas, and
- (b) the assistance available for the improvement of the amenities of the area or of the dwellings in the area,

by publishing from time to time, in such manner as appears to them appropriate, such information as is in their opinion best designed to further the objects of those provisions.

**258 Exclusion of land from, or termination of, general improvement area.**

- (1) The local housing authority may by resolution—
  - (a) exclude land from a general improvement area, or
  - (b) declare an area to be no longer a general improvement area.
- (2) The resolution does not affect the continued operation of the provisions of this Part relating to general improvement areas, or any other provision so relating, in relation to works begun before the date on which the resolution takes effect; but the exclusion or cessation does apply with respect to works which have not been begun before that date, notwithstanding that expenditure in respect of the works has been approved before that date.

**259 Contributions by Secretary of State.**

- (1) The Secretary of State may pay contributions to a local housing authority towards such expenditure incurred by them under the provisions of this Part relating to general improvement areas as he may determine.
- (2) The contributions shall be annual sums—
  - (a) payable in respect of a period of 20 years beginning with the financial year in which the expenditure towards which the contribution is made is incurred, and
  - (b) equal to one-half of the annual loan charges referable to that expenditure, that is to say, the annual sum that, in the opinion of the Secretary of State, would

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fall to be paid by the local housing authority for the repayment of principal and the payment of interest on a loan of an amount equal to the expenditure repayable over that period.

- (3) The aggregate of the expenditure towards which such contributions may be made with respect to a general improvement area shall not exceed the sum arrived at by multiplying—
- (a) £400, by
  - (b) the number of dwellings stated by the local housing authority under section 254(4) to be in the area X;
- but two adjoining general improvement areas may for this purpose be treated as one.
- (4) The Secretary of State may, with the consent of the Treasury—
- (a) by order substitute in subsections (2) and (3) another fraction for one-half and another amount for £400;
  - (b) direct that those subsections shall have effect, in the case of a general improvement area specified in the direction or of a description so specified, with the substitution of a higher fraction or a greater amount than that for the time being specified in the subsection.
- (5) An order under subsection (4)(a)—
- (a) may make different provision for different cases or descriptions of case, 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 the House of Commons.
- (6) For the purposes of this section—
- (a) the cost of acquiring an estate or interest in a case where periodical payments fall to be made in connection with the acquisition shall be taken to include such sum as the Secretary of State may determine to be the capital equivalent of those payments; and
  - (b) the cost of works shall be taken to include the cost of the employment in connection with the works of an architect, engineer, surveyor, land-agent or other person in an advisory or supervisory capacity.
- (7) In the case of contributions payable in respect of—
- (a) works to which the Housing Act 1971 applied (works in certain areas completed before 23rd June 1974), or
  - (b) expenditure on providing land treated as expenditure on such works by virtue of section 2(4) of that Act,
- subsection (2)(b) above has effect with the substitution of “75 per cent.” for “one-half”.

*Supplementary provisions*

**260 Powers of entry.**

- (1) A person authorised by the local housing authority or the Secretary of State may at any reasonable time, on giving 24 hours' notice of his intention to the occupier, and to the owner if the owner is known, enter premises—



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- (a) for the purposes of survey and examination where it appears to the authority or the Secretary of State that survey or examination is necessary in order to determine whether any powers under this Part should be exercised; or
  - (b) for the purpose of survey or valuation where the authority are authorised by this Part to purchase the premises compulsorily.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised.

## **261 Penalty for obstruction.**

- (1) It is a summary offence to obstruct an officer of the local housing authority, or of the Secretary of State, or a person authorised to enter premises in pursuance of this Part, in the performance of anything which that officer, authority or person is by this Part required or authorised to do.
- (2) A person who commits such an offence is liable on conviction to a fine not exceeding level 2 on the standard scale.

## **262 Minor definitions.**

In this Part—

“disposal”, in relation to land, includes a conveyance of, or contract to convey, an estate or interest not previously in existence;

“owner”, in relation to premises—

- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years.

## **263 Index of defined expressions: Part VIII.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section):—

clearance area	section 289
disposal (of land)	section 262
district (of a local housing authority)	section 2(1)
dwelling (in provisions relating to housing action areas)	section 252
general improvement area	section 253
hostel	section 622
house in multiple occupation	section 252
housing accommodation	section 252
housing action area	section 239

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lease, lessee and lessor	section 621
local housing authority	section 1, 2(2)
owner (of premises)	section 262
protected occupancy	section 622
protected tenancy	section 622
restricted contact	section 622
standard scale (in reference to the maximum fine on summary conviction)	section 622
tenancy and tenant	section 621

## PART IX

### SLUM CLEARANCE

*Demolition or closing of unfit premises beyond repair at reasonable cost*

#### **264 Power to accept undertaking as to reconstruction or use of unfit house.**

- (1) Where the local housing authority are satisfied that a house is unfit for human habitation and not capable of being rendered so fit at reasonable expense, they shall serve on—
  - (a) the person having control of the house,
  - (b) any other person who is an owner of the house, and
  - (c) every mortgagee of the house whom it is reasonably practicable to ascertain, notice of a time (at least 21 days after the service of the notice) and place at which the condition of the house and any offer which he may wish to submit with respect to the carrying out of works, or the future user of the premises, will be considered by the authority.
- (2) Every person on whom such a notice is served is entitled to be heard when the matter is so taken into consideration.
- (3) A person on whom such a notice is served shall, if he intends to submit an offer with respect to the carrying out of works—
  - (a) within 21 days from the date of the service of the notice on him, serve on the authority notice in writing of his intention to make such an offer, and
  - (b) within such reasonable period as the authority may allow, submit to them a list of the works which he offers to carry out.
- (4) The local housing authority may, if after consultation with an owner or mortgagee of the house they think fit to do so, accept an undertaking from him, either—
  - (a) that he will within a specified period carry out such works as will, in the opinion of the authority, render the house fit for human habitation, or
  - (b) that the house will not be used for human habitation until the authority, on being satisfied that it has been rendered fit for that purpose, cancel the undertaking.

- (5) Nothing in the Rent Acts prevents possession being obtained by an owner of premises in a case where an undertaking has been given under this section that the premises will not be used for human habitation.
- (6) A person who, knowing that an undertaking has been given under this section that premises will not be used for human habitation, uses the premises in contravention of the undertaking or permits them to be so used, commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale and to a further fine not exceeding £5 for every day or part of a day on which he so uses them or permits them to be used after conviction.
- (7) In this section references to a house include a hut, tent, caravan or other temporary or movable form of shelter which is used for human habitation and has been in the same enclosure for a period of two years next before action is taken.

**265 Demolition or closing order to be made where no undertaking accepted or undertaking broken.**

- (1) If no undertaking under section 264 is accepted by the local housing authority or if, where they have accepted such an undertaking—
  - (a) any work to which the undertaking relates is not carried out within the specified period, or
  - (b) the house is at any time used in contravention of the terms of the undertaking, the authority shall forthwith make a demolition or closing order in respect of the premises to which the notice under that section relates.
- (2) The authority shall make a demolition order unless—
  - (a) they consider it inexpedient to make a demolition order having regard to the effect of the demolition on another building, or
  - (b) section 304(1) applies (listed buildings and buildings protected by notice pending listing),in which case they shall make a closing order.
- (3) The provisions of this section have effect subject to section 300 (power to purchase for temporary housing use houses liable to be demolished or closed).

**266 Power to make closing order as to part of building.**

A local housing authority may under sections 264 and 265 take the like proceedings in relation to—

- (a) any part of a building which is used, or is suitable for use, as a dwelling, or
- (b) an underground room which is deemed to be unfit for the purposes of this section in accordance with section 282,

as they are empowered to take in relation to a house, subject, however, to the qualification that instead of a demolition order they shall make a closing order.

**267 Content of demolition and closing orders.**

- (1) A demolition order is an order requiring that the premises—
  - (a) be vacated within a specified period (of at least 28 days) from the date on which the order becomes operative, and

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- (b) be demolished within six weeks after the end of that period or, if it is not vacated before the end of that period, after the date on which it is vacated or, in either case, within such longer period as in the circumstances the local housing authority consider it reasonable to specify.
- (2) A closing order is an order prohibiting the use of the premises to which it relates for any purpose not approved by the local housing authority.
- (3) The approval of the local housing authority shall not be unreasonably withheld, and a person aggrieved by the withholding of such approval by the authority may, within 21 days of the refusal, appeal to the county court.

#### **268 Service of notice of order.**

- (1) Where a local housing authority have made a demolition or closing order, they shall serve a copy of the order on—
  - (a) the person having control of the premises,
  - (b) any other person who is an owner of the premises, and
  - (c) every mortgagee of the premises whom it is reasonably practicable to ascertain.
- (2) An order against which no appeal is brought becomes operative at the end of the period of 21 days from the date of service of the order and is final and conclusive as to matters which could have been raised on an appeal.

#### **269 Right of appeal against order.**

- (1) A person aggrieved by a demolition or closing order may, within 21 days after the date of the service of the order, appeal to the county court.
- (2) No appeal lies at the instance of a person who is in occupation of the premises under a lease or agreement with an unexpired term of three years or less.
- (3) On an appeal the court—
  - (a) may make such order either confirming or quashing or varying the order as it thinks fit, and
  - (b) may, if it thinks fit, accept from an appellant any undertaking which might have been accepted by the local housing authority.
- (4) The court shall not accept an undertaking to carry out works from an appellant on whom a notice was served under section 264(1) (notice of appointment to consider condition of premises) unless the appellant complied with the requirements of section 264(3) (duty to give notice of intention to offer undertaking and to supply list of works).
- (5) An undertaking accepted by the court has the same effect as an undertaking given to and accepted by the local housing authority under section 264.
- (6) If an appeal is brought the order does not become operative until—
  - (a) a decision on the appeal confirming the order (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
  - (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the order (with or without variation);

and for this purpose the withdrawal of an appeal has the same effect as a decision confirming the order or decision appealed against.

### *Demolition orders*

#### **270 Demolition orders: recovery of possession of building to be demolished.**

- (1) Where a demolition order has become operative, the local housing authority shall serve on the occupier of any building, or part of a building, to which the order relates a notice—
  - (a) stating the effect of the order,
  - (b) specifying the date by which the order requires the building to be vacated, and
  - (c) requiring him to quit the building before that date or before the expiration of 28 days from the service of the notice, whichever may be the later.
- (2) If any person is in occupation of the building, or any part of it, at any time after the date on which the notice requires the building to be vacated, the local housing authority or an owner of the building may apply to the county court which shall thereupon order vacant possession of the building or part to be given to the applicant within such period, of not less than two or more than four weeks, as the court may determine.
- (3) Nothing in the Rent Acts affects the provisions of this section relating to the obtaining possession of a building.
- (4) Expenses incurred by the local housing authority under this section in obtaining possession of a building, or part of a building, may be recovered by them by action from the owner, or from any of the owners, of the building.
- (5) A person who, knowing that a demolition order has become operative and applies to a building—
  - (a) enters into occupation of the building, or a part of it, after the date by which the order requires it to be vacated, or
  - (b) permits another person to enter into such occupation after that date,commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale and to a further fine not exceeding £5 for every day or part of a day on which the occupation continues after conviction.

#### **271 Demolition orders: execution of order.**

- (1) When a demolition order has become operative, the owner of the premises to which it applies shall demolish the premises within the time limited by the order, and if the premises are not demolished within that time the local housing authority shall enter and demolish them and sell the materials.
- (2) Subsection (1) has effect subject to—
  - section 273 (cleansing before demolition),
  - section 274 (power to permit reconstruction), and
  - section 275 (use otherwise than for human habitation).

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**272 Demolition orders: expenses of local housing authority, &c.**

- (1) Expenses incurred by the local housing authority under section 271 (execution of demolition order), after giving credit for any amount realised by the sale of materials, may be recovered by them from the owner of the premises.
- (2) If there is more than one owner—
  - (a) the expenses may be recovered by the local housing authority from the owners in such shares as the court may determine to be just and equitable, and
  - (b) an owner who pays to the authority the full amount of their claim may recover from any other owner such contribution, if any, as the court may determine to be just and equitable.
- (3) A surplus in the hands of the authority shall be paid by them to the owner of the premises or, if there is more than one owner, as the owners may agree.
- (4) If there is more than one owner and the owners do not agree as to the division of the surplus, the authority shall, by virtue of this subsection, be trustees of the surplus for the owners of the premises and section 63 of the Trustee Act 1925 (which relates to payment into court by trustees) has effect accordingly.
- (5) The county court has jurisdiction to hear and determine proceedings under subsection (1) or (2), and has jurisdiction under section 63 of the Trustee Act 1925 in relation to such a surplus as is referred to in subsection (4).
- (6) In determining for the purposes of this section the shares in which expenses are to be paid or contributed by, or a surplus divided between, two or more owners of premises, the court shall have regard to all the circumstances of the case, including—
  - (a) their respective interests in the premises, and
  - (b) their respective obligations and liabilities in respect of maintenance and repair under any covenant or agreement, whether express or implied.

**273 Demolition orders: cleansing before demolition.**

- (1) If it appears to the local housing authority that premises to which a demolition order applies require to be cleansed from vermin, they may, at any time between the date on which the order is made and the date on which it becomes operative, serve notice in writing on the owner or owners of the premises that they intend to cleanse the premises before they are demolished.
- (2) Where the authority have served such a notice—
  - (a) they may, at any time after the order has become operative and the premises have been vacated, enter and carry out such work as they may think requisite for the purpose of destroying or removing vermin, and
  - (b) the demolition shall not be begun or continued by an owner after service of the notice on him, except as mentioned in subsection (3), until the authority have served on him a further notice authorising him to proceed with the demolition.
- (3) An owner on whom a notice has been served under subsection (1) may, at any time after the premises have been vacated, serve notice in writing on the authority requiring them to carry out the work within 14 days from the receipt of the notice served by him, and at the end of that period shall be at liberty to proceed with the demolition whether the work has been completed or not.

- (4) Where the local housing authority serve a notice under subsection (1), they shall not take action under section 271 (under which they are to demolish the house if the owners do not) until the expiration of six weeks from the date on which the owner or owners become entitled by virtue of subsection (2) or (3) to proceed with the demolition.

**274 Demolition orders: power to permit reconstruction of condemned house.**

- (1) Where a demolition order has become operative—
- (a) the owner of the house, or
  - (b) any other person who in the opinion of the local housing authority is or will be in a position to put his proposals into effect,
- may submit proposals to the authority for the execution by him of works designed to secure the reconstruction, enlargement or improvement of the house, or of buildings including the house.
- (2) If the authority are satisfied that the result of the works will be the provision of one or more houses fit for human habitation, they may, in order that the person submitting the proposals may have an opportunity of carrying out the works, extend for such period as they may specify the time within which the owner of the house is required under section 271 to demolish it.
- (3) That time may be further extended by the authority, once or more often as the case may require, if—
- (a) the works have begun and appear to the authority to be making satisfactory progress, or
  - (b) though they have not begun, the authority think there has been no unreasonable delay.
- (4) Where the authority determine to extend, or further extend, the time within which the owner of a house is required under section 271 to demolish it, notice of the determination shall be served by the authority on every person having an interest in the house, whether as freeholder, mortgagee or otherwise.
- (5) If the works are completed to the satisfaction of the authority they shall revoke the demolition order (but without prejudice to any subsequent proceedings under this Part).

**275 Demolition orders: substitution of closing order to permit use otherwise than for human habitation.**

- (1) If an owner of a house in respect of which a demolition order has become operative, or any other person who has an interest in the house, submits proposals to the local housing authority for the use of the house for a purpose other than human habitation, the authority may if they think fit to do so determine the demolition order and make a closing order as respects the house.
- (2) The authority shall serve notice that the demolition order has been determined, and a copy of the closing order, on—
- (a) the person having control of the house, and
  - (b) any other person who is an owner of the house, and
  - (c) every mortgagee of the house whom it is reasonably practicable to ascertain.

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### *Closing orders*

#### **276 Closing orders: recovery of possession of house.**

Nothing in the Rent Acts prevents possession being obtained by the owner of premises in respect of which a closing order is in force.

#### **277 Closing orders: enforcement.**

If a person, knowing that a closing order has become operative and applies to premises, uses the premises in contravention of the order, or permits them to be so used, he commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale and to a further fine not exceeding £20 for every day or part of a day on which he so uses them or permits them to be so used after conviction.

#### **278 Closing orders: determination of order on premises being rendered fit.**

- (1) The local housing authority shall determine a closing order on being satisfied that the premises have been rendered fit for human habitation, and if so satisfied as respects part of the premises they shall determine the order so far as it relates to that part.
- (2) A person aggrieved by a refusal by the local housing authority to determine a closing order, either wholly or as respects part of the premises to which it relates, may, within 21 days after the refusal, appeal to the county court.
- (3) No appeal lies at the instance of a person who is in occupation of the premises, or a relevant part of the premises, under a lease or agreement of which the unexpired term is three years or less.

#### **279 Closing orders: substitution of demolition order.**

- (1) Where a local housing authority have made a closing order, they may, subject to subsection (2), at any time revoke it and make a demolition order.
- (2) The power conferred by subsection (1) is not exercisable in relation to a closing order made under or by virtue of—
  - section 266 (parts of buildings and underground rooms),
  - section 304(1) (listed buildings), or
  - section 304(2) (building subject to demolition order becoming listed),or where the closing order has been determined under section 278 as respects part of the premises to which it relates.
- (3) The provisions of this Part relating to demolition orders, including the provisions relating to service of copies of the order and appeals, apply to an order under this section as they apply to a demolition order under section 265.

### *Closing of underground rooms*

#### **280 Meaning of “underground room”.**

In this Part “underground room” means a room the surface of the floor of which is more than three feet below—



- (a) the surface of the part of the street adjoining or nearest to the room, or
- (b) the surface of any ground within nine feet of the room.

**281 Regulations as to ventilation, lighting, etc. of underground rooms.**

- (1) A local housing authority may, with the consent of the Secretary of State, make regulations for securing the proper ventilation and lighting of underground rooms and the protection of such rooms against dampness, effluvia or exhalation.
- (2) If a local housing authority, after being required to do so by the Secretary of State, fail to make regulations under subsection (1), or to make such regulation as he approves, the Secretary of State may himself by statutory instrument make regulations which shall have effect as if made by the authority under that subsection.

**282 Closing of underground room deemed to be unfit for human habitation.**

- (1) An underground room shall be deemed for the purposes of section 266 (closing orders) to be unfit for human habitation if—
  - (a) the average height of the room from floor to ceiling is not at least seven feet, or
  - (b) the room does not comply with regulations made by the local housing authority under section 281.
- (2) Nothing in this section affects the taking of action in respect of premises consisting of or including an underground room on the ground that they are unfit for human habitation in accordance with section 604 (fitness for human habitation: general provisions).

*Demolition of obstructive buildings*

**283 Buildings liable to be demolished as “obstructive buildings”.**

- (1) In this Part “obstructive building” means a building which, by virtue only of its contact with or proximity to other buildings, is dangerous or injurious to health.
- (2) A building is not liable to be demolished as an obstructive building under the following provisions of this Part if it is—
  - (a) the property of statutory undertakers (unless the building is used for the purposes of a dwelling, showroom or office), or
  - (b) the property of a local authority.
- (3) In subsection (2) “statutory undertakers” means persons authorised by an enactment, or by an order, rule or regulation made under an enactment, to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking.

**284 Obstructive building order.**

- (1) The local housing authority may serve upon every owner of a building which appears to them to be an obstructive building, notice of a time (not being less than 21 days after the service of the notice) and place at which the question of ordering the building to be demolished will be considered by the authority.

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- (2) Every owner of the building is entitled to be heard when the matter is so taken into consideration.
- (3) If, after so taking the matter into consideration, the authority are satisfied that the building is an obstructive building and that the building, or a part of it, ought to be demolished, they shall make an obstructive building order, that is to say, an order requiring—
  - (a) that the building, or part of it, be demolished, and
  - (b) that the building, or such part of it as is required to be vacated for the purposes of the demolition, be vacated within two months from the date on which the order becomes operative.
- (4) The authority shall serve a copy of the order on every owner of the building.
- (5) The order becomes operative, if no appeal is brought against it, on the expiration of 21 days from the date of the service of the order and is final and conclusive as to matters which could have been raised on such an appeal.

**285 Right of appeal against obstructive building order.**

- (1) A person aggrieved by an obstructive building order may, within 21 days after the date of the service of the order, appeal to the county court.
- (2) No appeal lies at the instance of a person who is in occupation of the building to which the order relates under a lease or agreement of which the unexpired term is three years or less.
- (3) On an appeal the court may make such order either confirming, quashing or varying the order as it thinks fit.
- (4) If an appeal is brought, the order does not become operative until—
  - (a) a decision on the appeal confirming the order (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
  - (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the order (with or without variation);
 and for this purpose the withdrawal of an appeal has the same effect as a decision confirming the order or decision appealed against.

**286 Obstructive building order: recovery of possession of building to be demolished.**

- (1) Where an obstructive building order has become operative, the local housing authority shall serve on the occupier of the building, or part of a building, to which the order relates a notice—
  - (a) stating the effect of the order,
  - (b) specifying the date by which the order requires the building to be vacated, and
  - (c) requiring him to quit the building before that date or before the expiration of 28 days from the service of the notice, whichever may be the later.
- (2) If at any time after the date on which the notice requires the building to be vacated a person is in occupation of the building, or part of it, the local housing authority or an owner of the building may apply to the county court which shall order vacant

possession of the building, or of the part of it, to be given to the applicant within such period, of not less than two or more than four weeks, as the court may determine.

- (3) Nothing in the Rent Acts affects the provisions of this section relating to the obtaining of possession of a building.
- (4) A person who, knowing that an obstructive building order has become operative and applies to a building—
- (a) enters into occupation of the building, or of a part of it, after the date by which the order requires the building to be vacated, or
  - (b) permits another person to enter into such occupation after that date,
- commits a summary offence and is liable on conviction to a fine not exceeding level 2 on the standard scale and to a further fine not exceeding £5 a day for every day or part of a day on which the occupation continues after conviction.

### **287 Execution of obstructive building order.**

- (1) If before the end of the period within which a building in respect of which an obstructive building order is made is required by the order to be vacated—
- (a) an owner whose estate or interest in the building and its site is such that its acquisition by the local housing authority would enable the authority to carry out the demolition provided for by the order, or
  - (b) owners whose combined estates or interests in the building and its site are such that their acquisition by the authority would enable the authority to carry out the demolition provided by the order,
- make to the authority an offer for the sale of that interest, or of those interests, at a price to be assessed as if it were compensation for a compulsory purchase under section 290 (acquisition of land for clearance), the authority shall accept the offer and shall, as soon as possible after obtaining possession, carry out the demolition.
- (2) If no such offer is made before the end of the period within which the building is required by the order to be vacated, the owner or owners shall carry out the demolition provided for by the order before the expiration of six weeks from—
- (a) the last day of that period, or
  - (b) if the building, or such part of it as is required to be vacated, is not vacated until after that day, the day on which it is vacated,
- or, in either case, such longer period as in the circumstances the local housing authority deem reasonable.
- (3) If the demolition is not so carried out, the local housing authority shall enter and carry out the demolition and sell the materials rendered available by the demolition.

### **288 Obstructive buildings: expenses of local housing authority, &c.**

- (1) Expenses incurred by the local housing authority under section 287(3) (execution of obstructive building order) after giving credit for any amount realised by the sale of materials, may be recovered by them from the owner of the building.
- (2) If there is more than one owner—
- (a) the expenses may be recovered by the authority from the owners in such shares as the court may determine to be just and equitable, and

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- (b) an owner who pays to the authority the full amount of their claim may recover from any other owner such contribution, if any, as the court may determine to be just and equitable.
- (3) A surplus in the hands of the authority shall be paid by them to the owner of the building or, if there is more than one owner, as the owners may agree.
- (4) If there is more than one owner and the owners do not agree as to the division of the surplus, the authority shall, by virtue of this subsection, be trustees of the surplus for the owners of the premises and section 63 of the Trustee Act 1925 (which relates to payment into court by trustees) has effect accordingly.
- (5) The county court has jurisdiction to hear and determine proceedings under subsection (1) or (2), and has jurisdiction under section 63 of the Trustee Act 1925 in relation to such a surplus as is referred to in subsection (4).
- (6) In determining for the purposes of this section the shares in which expenses are to be paid or contributed by, or a surplus divided between, two or more owners of a building, the court shall have regard to all the circumstances of the case, including—
  - (a) their respective interests in the building, and
  - (b) their respective obligations and liabilities in respect of maintenance and repair under any covenant or agreement, whether express or implied.

#### *Clearance areas*

### **289 Declaration of clearance area.**

- (1) A clearance area is an area which is to be cleared of all buildings in accordance with the following provisions of this Part.
- (2) The local housing authority shall declare an area to be a clearance area if they are satisfied—
  - (a) that the houses in the area are unfit for human habitation or are by reason of their bad arrangement, or the narrowness or bad arrangement of the streets, dangerous or injurious to the health of the inhabitants of the area, and
  - (b) that the other buildings, if any, in the area are for a like reason dangerous or injurious to the health of the inhabitants of the area,
 and that the most satisfactory method of dealing with the conditions in the area is the demolition of all the buildings in the area.
- (3) If the authority are so satisfied they shall—
  - (a) cause the area to be defined on a map in such manner as to exclude from any area any building which is not unfit for human habitation or dangerous or injurious to health, and
  - (b) pass a resolution declaring the area so defined to be a clearance area.
- (4) Before passing such a resolution the authority shall satisfy themselves—
  - (a) that, in so far as suitable accommodation does not already exist for the persons who will be displaced by the clearance of the area, the authority can provide, or secure the provision of, such accommodation in advance of the displacements which will from time to time become necessary as the demolition of the buildings in the area, or in different parts of it, proceeds, and

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- (b) that the resources of the authority are sufficient for the purposes of carrying the resolution into effect.
- (5) The authority shall forthwith transmit to the Secretary of State a copy of any resolution passed by them under this section, together with a statement of the number of persons who on a day specified in the statement were occupying the buildings comprised in the clearance area.
- (6) A clearance area shall not be so defined as to include land in a general improvement area.

## **290 Acquisition of land for clearance.**

- (1) So soon as may be after the local housing authority have declared an area to be a clearance area, they shall proceed to secure the clearance of the area (subject to and in accordance with the provisions of this Part) by purchasing the land comprised in the area and themselves undertaking, or otherwise securing, the demolition of the buildings on the land.
- (2) Where the authority determine to purchase land comprised in a clearance area, they may also purchase—
  - (a) land which is surrounded by the clearance area and the acquisition of which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions, and
  - (b) adjoining land the acquisition of which is reasonably necessary for the satisfactory development or use of the cleared area.
- (3) Where the authority have determined to purchase land under this section, they may purchase the land by agreement or be authorised by the Secretary of State to purchase the land compulsorily.
- (4) The powers conferred by subsection (3) are exercisable notwithstanding that any of the buildings within the area have been demolished since the area was declared to be a clearance area.

## **291 Method of dealing with land acquired for clearance.**

- (1) A local housing authority who have purchased land under section 290 shall, so soon as may be, cause every building on the land to be vacated and deal with the land in one or other of the following ways, or partly in one of those ways and partly in the other, that is to say—
  - (a) themselves demolish every building on the land within the period mentioned in subsection (2) and thereafter appropriate or dispose of the land, subject to such restrictions and conditions (if any) as they think fit, or
  - (b) dispose of the land as soon as may be subject to a condition that the buildings on it be demolished forthwith, and subject to such restrictions and other conditions (if any) as they think fit.
- (2) The period within which the authority is to demolish a building under paragraph (a) of subsection (1) is six weeks from the date on which the building is vacated or such longer period as in the circumstances they consider reasonable.
- (3) This section has effect subject to—
  - section 301 (retention of premises for temporary housing use),

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sections 305 and 306 (suspensions of clearance procedure on building becoming listed), and

Schedule 11 (rehabilitation orders).

- (4) The references in subsection (1) to appropriation or disposal under the general powers conferred by section 122 or 123 of the Local Government Act 1972.

**292 Power to discontinue proceedings if acquisition of land proves unnecessary.**

Where the local housing authority have submitted to the Secretary of State an order for the compulsory purchase of land in a clearance area and the Secretary of State, on an application being made to him by the owner or owners of the land and the authority, is satisfied—

- (a) that the owner or owners of the land, with the concurrence of any mortgagee of the land, agree to the demolition of the buildings on the land, and
- (b) that the authority can secure the proper clearance of the area without acquiring the land,

the Secretary of State may authorise the authority to discontinue proceedings for the purchase of the land on their being satisfied that such covenants have been or will be entered into by all necessary parties as may be requisite for securing that the buildings will be demolished, and the land become subject to the like restrictions and conditions, as if the authority had dealt with the land in accordance with the provisions of section 291.

**293 Property belonging to the local housing authority.**

- (1) The local housing authority may include in a clearance area land belonging to them which they might have included in the area if it had not belonged to them, and the provisions of this Part apply to land so included as they apply to land purchased by the authority as being comprised in the clearance area.
- (2) Where land belonging to the local housing authority is surrounded by or adjoins a clearance area and might, had it not previously been acquired by them, have been purchased by the authority under section 290(2), the provisions of this part apply to that land as they apply to land purchased by the authority as being surrounded by or adjoining the clearance area.

**294 Extinguishment of public rights of way over land acquired.**

- (1) The local housing authority may, with the approval of the Secretary of State, by order extinguish any public right of way over land acquired by them under section 290 (land acquired for clearance).
- (2) Where the authority have resolved to purchase under that section land over which a public right of way exists, they may make and the Secretary of State may approve, in advance of the purchase, an order extinguishing that right as from the date on which the buildings on the land are vacated, or at the end of such period after that date as may be specified in the order or as the Secretary of State in approving the order may direct.
- (3) The order shall be published in such manner as may be prescribed and if objection to the order is made to the Secretary of State before the expiration of six weeks from its publication, he shall not approve the order until he has caused a public local inquiry to be held into the matter.

## **295 Extinguishment of other rights over land acquired.**

- (1) Upon the completion by the local housing authority of the purchase by them under section 290 (land acquired for clearance)—
  - (a) all private rights of way over the land,
  - (b) all rights of laying down, erecting, continuing or maintaining apparatus on, under or over the land, and
  - (c) all other rights or easements in or relating to the land,shall be extinguished and any such apparatus shall vest in the authority.
- (2) Subsection (1) has effect subject to—
  - (a) any agreement which may be made between the local housing authority and the person in or to whom the right or apparatus is vested or belongs, and
  - (b) sections 296 and 298 (which relate to the rights and apparatus of statutory undertakers and certain operators of telecommunication systems).
- (3) A person who suffers loss by the extinguishment of any right or the vesting of any apparatus under subsection (1) is entitled to be paid by the local housing authority compensation to be determined under and in accordance with the Land Compensation Act 1961.

## **296 Apparatus of statutory undertakers.**

- (1) Section 295(1) (extinguishment of rights over land acquired for clearance and vesting of apparatus in local housing authority) does not apply to—
  - (a) any right vested in statutory undertakers of laying down, erecting, continuing or maintaining any apparatus, or
  - (b) any apparatus belonging to statutory undertakers.
- (2) Where the removal or alteration of apparatus belonging to statutory undertakers—
  - (a) on, under or over land purchased by a local housing authority under section 290 (land acquired for clearance), or
  - (b) on, under or over a street running over, or through, or adjoining any such land.is reasonably necessary for the purpose of enabling the authority to exercise any of the powers conferred on them by the provisions of this Part relating to clearance areas, the authority may execute works for the removal or alteration of the apparatus, subject to and in accordance with the provisions of section 297 (procedure for removal or alteration of apparatus).
- (3) The local housing authority shall make reasonable compensation to statutory undertakers for any damage sustained by the undertakers by reason of the execution by the authority of works under this section and not made good by the provision of substituted apparatus; and any question as to the right of undertakers to recover such compensation or as to its amount shall be referred to and determined by the Lands Tribunal.
- (4) In this section—
  - (a) “statutory undertakers” means persons authorised by an enactment, or by an order, rule or regulation made under an enactment, to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking;

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- (b) “apparatus” means sewers, drains, culverts, water-courses, mains, pipes, valves, tubes, cables, wires, transformers and other apparatus laid down or used for or in connection with the carrying, conveying or supplying to any premises of a supply of water, water for hydraulic power, gas or electricity, and standards and brackets carrying street lamps;
- (c) references to the alteration of apparatus include references to diversion and to the alteration of position or level.

**297 Procedure for removal or alteration of apparatus under s. 296.**

- (1) A local housing authority who intend to remove or alter apparatus in exercise of the power conferred by section 296—
  - (a) shall serve on the undertakers notice in writing of their intention with particulars of the proposed works and of the manner in which they are to be executed and plans and sections of them, and
  - (b) shall not commence any works until the expiration of the period of 28 days from the date of service of that notice;

and within that period the undertakers may, by notice in writing served on the authority, make objections to, or state requirements with respect to, the proposed works as follows.
- (2) The undertakers may object to the execution of the works, or any of them, on the ground that they are not reasonably necessary for the purpose mentioned in section 296(2); and if objection is so made to any works and not withdrawn, the authority shall not execute the works unless they are determined by arbitration to be so necessary.
- (3) The undertakers may state requirements to which, in their opinion, effect ought to be given as to—
  - (a) the manner of, or the conditions to be observed in, the execution of the works, or
  - (b) the execution of other works for the protection of other apparatus belonging to the undertakers or for the provision of substituted apparatus, whether permanent or temporary;

and if any such requirement is so made and not withdrawn, the authority shall give effect to it unless it is determined by arbitration to be unreasonable.
- (4) At least seven days before commencing any works which they are authorised by section 296, or required by subsection (3), to execute, the local housing authority shall, except in case of emergency, serve on the undertakers notice in writing of their intention to do so; and the works shall be executed by the authority under the superintendence (at the expense of the authority) and to the reasonable satisfaction of the undertakers.
- (5) If within seven days from the date of service on them of such a notice the undertakers so elect, they shall themselves execute the works in accordance with the reasonable directions and to the reasonable satisfaction of the authority; and the reasonable costs of the works shall be repaid to the undertakers by the authority.
- (6) Any matter which by virtue of subsection (2) or (3) is to be determined by arbitration, and any difference arising between statutory undertakers and a local housing authority under subsection (4) or (5), shall be referred to and determined by an arbitrator to be appointed, in default of agreement, by the Secretary of State.



## **298 Telecommunication apparatus.**

- (1) In this section—
- (a) “the telecommunications code” means the code contained in Schedule 2 to the Telecommunications Act 1984,
  - (b) “telecommunications code system” means a telecommunication system to which that code applies, and
  - (c) expressions which are defined for the purposes of that code by paragraph 1 of that Schedule, or are defined in that Act for the purposes of that Act, have the same meaning in this section.
- (2) Where a public right of way over land is extinguished by an order under section 294 and immediately before the order comes into operation there is under, in, on, over, along or across the land telecommunication apparatus kept installed for the purposes of a telecommunications code system, the powers of the operator of the system in respect of the apparatus are not affected by the order, but any person entitled to the land over which the right of way subsisted may require the alteration of the apparatus, and paragraph 21 of the telecommunications code (procedure for exercise of right to require removal of apparatus) applies.
- (3) Section 295(1) (extinguishment of other rights over land acquired for clearance and vesting of apparatus in local housing authority) does not apply to—
- (a) any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system, or
  - (b) telecommunication apparatus kept installed for the purposes of such a system; but the local housing authority may, where it is reasonably necessary for the purpose of enabling the authority to exercise any of the powers conferred on them by the provisions of this Act relating to clearance areas, execute works for the alteration of such apparatus, and paragraph 23 of the telecommunications code (procedure for works involving alteration of apparatus) applies.

### *Rehabilitation orders*

## **299 Rehabilitation orders in respect of houses in clearance areas.**

- (1) Schedule 11 has effect with respect to rehabilitation orders in respect of houses acquired for clearance, or which it was resolved to acquire, before 2nd December 1974 (when the provisions of the Housing Act 1974 with respect to housing action areas and improvement notices came into force), as follows:—
- Part I — The making of the order and its effect.
  - Part II — Procedural matters.
- (2) References in that Schedule to improvement to “the full standard” have the same meaning as in Part VII (improvement notices).

### *Use of condemned houses for temporary housing accommodation*

## **300 Purchase of houses liable to be demolished or closed.**

- (1) Where the local housing authority would be required under section 265 to make a demolition or closing order in respect of a house, they may, if it appears to them that

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the house is or can be rendered capable of providing accommodation of a standard which is adequate for the time being, purchase it instead.

- (2) Where an authority have determined to purchase a house under this section—
  - (a) they shall serve a notice of their determination on the persons on whom they would have been required by section 268(1) to serve a copy of a demolition or closing order, and
  - (b) sections 268(2) and 269 (operative date and right of appeal) apply to such a notice as they apply to a demolition or closing order.
- (3) At any time after the notice has become operative the authority may purchase the house by agreement or be authorised by the Secretary of State to purchase it compulsorily.
- (4) In this section “house”—
  - (a) does not have the extended meaning given by section 264(7) (temporary or movable structures), and
  - (b) does not include premises against which action is taken by virtue of section 266 (parts of buildings and underground rooms).
- (5) This section does not apply where section 304(1) applies (listed building or building protected pending listing).

### **301 Retention of houses acquired for clearance.**

- (1) The local housing authority, having declared an area to be a clearance area, may postpone for such period as they may determine the demolition of houses on land purchased by them within the area if, in their opinion, the houses are or can be rendered capable of providing accommodation of a standard which is adequate for the time being.
- (2) Where the local housing authority are satisfied that a house on land purchased by them within a clearance area which is not retained by them for temporary use for housing purposes—
  - (a) is required for the support of a house which is so retained, or
  - (b) should not be demolished for the time being for some other special reason connected with the exercise in relation to the clearance area of the authority’s powers under subsection (1).

they may retain the house for the time being and are not required to demolish it so long as it is required for that purpose or, as the case may be, so long as those powers are being exercised by the authority in relation to that area.
- (3) Where the demolition of any houses in a clearance area is postponed under this section, the local housing authority may also postpone the taking of proceedings under section 290(1) (acquisition of land for clearance) in respect of buildings other than houses within the area.

### **302 Management and repair of houses acquired under s. 300 or retained under s. 301.**

Where a house is acquired by a local housing authority under section 300 or retained by a local housing authority under section 301 for temporary use for housing purposes—

- (a) the authority have the like powers in respect of the house as they have in respect of dwellings provided by them under Part II (provision of housing accommodation);
- (b) the authority may carry out such works as may from time to time be required for rendering and keeping the house capable of providing accommodation of a standard which is adequate for the time being pending its demolition;
- (c) section 8 of the Landlord and Tenant Act 1985 (implied condition of fitness for human habitation) does not apply to a contract for the letting of the house by the authority.

#### *Listed buildings*

### **303 Meaning of “listed building”.**

In this Part “listed building” means a building included in a list of buildings of special architectural or historic interest under section 54 of the Town and Country Planning Act 1971.

### **304 Closing order to be made in respect of listed building subject to s. 265.**

- (1) A local housing authority shall not make a demolition order under section 265 (unfit premises beyond repair at reasonable cost) in respect of a listed building but shall instead make a closing order under that section.
- (2) Where a house in respect of which a demolition order has been made becomes a listed building, the local housing authority shall determine the order, whether or not it has become operative, and make a closing order in respect of the house; and they shall serve—
  - (a) notice that the demolition order has been determined, and
  - (b) a copy of the closing order,on every person on whom they would be required by section 268 to serve a copy of a closing order made under section 265.
- (3) The Secretary of State may give notice in respect of a house to the local housing authority stating that its architectural or historic interest is sufficient to render it inexpedient that it should be demolished pending determination of the question whether it should be a listed building; and the provisions of this section apply to a house in respect of which such a notice is in force as they apply to a listed building.

### **305 Building becoming listed when subject to compulsory purchase for clearance.**

- (1) Where a building to which a compulsory purchase order under section 290 applies (acquisition of land for clearance) becomes a listed building at any time after the making of the order, the authority making the order may, within the period of three months beginning with the date on which the building becomes a listed building, apply to the Secretary of State (and only to him) under section 55 of the Town and Country Planning Act 1971 (listed building consent) for his consent to the demolition of the building.
- (2) If the authority have not served notice to treat in respect of the building under section 5 of the Compulsory Purchase Act 1965, they shall not do so unless and until the Secretary of State gives that consent.

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- (3) The following provisions of this section have effect where—
- (a) an application for such consent is made and refused, or
  - (b) the period for making an application expires without the authority having made an application;
- and in those provisions “the relevant date” means the date of the refusal or, as the case may be, the expiry of that period.
- (4) If at the relevant date—
- (a) the building has not vested in the authority, and
  - (b) no notice to treat has been served by the authority under section 5 of the Compulsory Purchase Act 1965 in respect of an interest in the building.
- the compulsory purchase order shall cease to have effect in relation to the building and, where applicable, the building shall cease to be comprised in a clearance area.
- (5) Where a building which was included in a clearance area solely be reason of its being unfit for human habitation ceases to be comprised in the area by virtue of subsection (4), the authority concerned shall forthwith take whichever of the following steps is appropriate—
- (a) serve a notice in respect of the building under section 189 (repair notice), or
  - (b) make a closing order in respect of the building under section 265.
- (6) Where subsection (4) does not apply, the authority shall cease to be subject to the duty imposed by section 291 (method of dealing with land acquired for clearance) to demolish the building, and—
- (a) if the building or an interest in it is vested in the authority at the relevant date, it shall be treated in the case of a house as appropriated to the purposes of Part II of this Act (provision of housing accommodation) and in any other case as appropriated to the purposes of Part VI of the Town and Country Planning Act 1971 (planning purposes);
  - (b) in relation to an interest in the building which has not at the relevant date vested in the authority, the compulsory purchase order has effect in the case of a house as if made and confirmed under Part II of this Act and in any other case as if made and confirmed under Part VI of the Town and Country Planning Act 1971.
- (7) No account shall be taken for the purposes of section 4 of the Compulsory Purchase Act 1965 (time limit for completing compulsory purchase) of any period during which an authority are prevented by this section from serving a notice to treat under section 5 of that Act.

### **306 Building becoming listed when acquired by agreement for clearance.**

- (1) Where section 291 (method of dealing with land acquired for clearance) applies to a building purchased by the local housing authority by agreement and the building becomes a listed building, the authority may, within the period of three months beginning with the date on which the building becomes a listed building, apply to the Secretary of State (and only to him) under section 55 of the Town and Country Planning Act 1971 for his consent to the demolition of the building.
- (2) Where such an application is made and is refused, or the period for making such an application expires without the authority making an application—

- (a) the authority shall cease to be subject to the duty imposed by section 291 to demolish the building, and
- (b) the building shall be treated in the case of a house as appropriated to the purposes of Part II of this Act (provision of housing accommodation) and in any other case as appropriated to the purposes of Part VI of the Town and Country Planning Act 1971 (planning purposes).

*Provisions for protection or assistance of owners*

**307 Saving for rights arising from breach of covenant, &c.**

- (1) Nothing in the provisions of this Part relating to—
  - (a) the demolition, closing or purchase of unfit premises, or
  - (b) the demolition of obstructive buildings,prejudices or interferes with the rights or remedies of an owner for breach of any covenant or contract entered into by a lessee in reference to premises in respect of which an order is made by the local housing authority under those provisions.
- (2) If an owner is obliged to take possession of premises in order to comply with such an order, the taking possession does not affect his right to avail himself of any such breach which occurred before he so took possession.

**308 Approval of owner's proposals for redevelopment.**

- (1) A person proposing to undertake the re-development of land may submit particulars of his proposals to the local housing authority for approval under this section.
- (2) The authority shall consider the proposals and if they appear to the authority to be satisfactory, the authority shall give notice to that effect to the person by whom they were submitted, specifying times within which the several parts of the re-development are to be carried out.
- (3) Where the authority have so given notice of their satisfaction with proposals, no action shall be taken in relation to the land under any of the powers conferred by the provisions of this Part relating to—
  - (a) the demolition, closing or purchase of unfit premises, or
  - (b) clearance areas.if and so long as the re-development is being proceeded with in accordance with the proposals and within the specified time limits, subject to any variation or extension approved by the authority.
- (4) This section does not apply to premises—
  - (a) in respect of which a demolition order has become operative, or
  - (b) comprised in a compulsory purchase order under section 290 (acquisition of land for clearance) which has been confirmed by the Secretary of State;and has effect subject to section 311 in a case where proposals are submitted under this section with respect to premises in a clearance area.

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### **309 Recovery of possession of premises for purposes of approved re-development.**

- (1) Where the local housing authority have given notice of their satisfaction with proposals submitted to them under section 308 and are satisfied—
  - (a) that it is necessary for the purpose of enabling re-development to be carried out in accordance with the proposals that a dwelling-house let on or subject to a protected tenancy or statutory tenancy (within the meaning of the Rent Act 1977) should be vacated, and
  - (b) that alternative accommodation complying with the requirements of this section is available for the tenant or will be available for him at a future date, they may issue to the landlord a certificate, which shall be conclusive evidence for the purposes of section 98(1)(a) of the Rent Act 1977 (grounds for possession), that suitable alternative accommodation is available for the tenant or will be available for him by that future date.
- (2) The requirements with which the alternative accommodation must comply are—
  - (a) that it must be a house in which the tenant and his family can live without causing it to be overcrowded within the meaning of Part X;
  - (b) that it must be certified by the local housing authority to be suitable to the needs of the tenant and his family as respects security of tenure, proximity to place of work and otherwise, and to be suitable in relation to his means; and
  - (c) that if the house belongs to the local housing authority it must be certified by them to be suitable to the needs of the tenant and his family as regards accommodation, for this purpose treating a house containing two bedrooms as providing accommodation for four persons, a house containing three bedrooms as providing accommodation for five persons and a house containing four bedrooms as providing accommodation for seven persons.

### **310 Certificate of fitness resulting from owner's improvements or alterations.**

- (1) An owner of a house in respect of which works of improvement or structural alteration are proposed to be executed may submit a list of the proposed works to the local housing authority with a request in writing that the authority inform him whether in their opinion the house would, after the execution of those works, or of those works together with additional works, be fit for human habitation and, with reasonable care and maintenance, remain so fit for a period of at least five years.
- (2) As soon as may be after the receipt of such a list and request, the authority shall take the list into consideration and shall inform the owner whether they are of that opinion, and, if they are, furnish him with a list of any additional works appearing to them to be required.
- (3) Where the authority have stated that they are of that opinion and the works specified in the list, together with any additional works specified in a list furnished by them, have been executed to their satisfaction, they shall, on the application of the owner and on payment by him of a fee of five pence, issue to him a certificate that the house is fit for human habitation and will with reasonable care and maintenance remain so fit for such period (not being less than five nor more than 15 years) as may be specified in the certificate.
- (4) During the period specified in a certificate given under this section—
  - (a) no action shall be taken in relation to the house under the provisions of this Part relating to the demolition, closing or purchase of unfit premises, and

- (b) no action shall be taken under the provisions of this Part relating to clearance areas with a view to the demolition of the house as being unfit for human habitation.
- (5) For the purposes of this section “works of improvement” includes the provision of additional or improved fixtures or fittings but not works by way of decoration or repair.
- (6) This section does not apply to premises—
  - (a) in respect of which a demolition order has become operative, or
  - (b) comprised in a compulsory purchase order under section 290 (acquisition of land for clearance) which has been confirmed by the Secretary of State; and has effect subject to section 311 in a case where proposals are submitted under this section with respect to premises in a clearance area.

**311 Consideration of proposals under s. 308 or s. 310 with respect to premises in clearance area.**

- (1) Where proposals as respects premises in a clearance area are submitted to the local housing authority under section 308 (owner’s re-development) or section 310 (owner’s improvements or alterations), the authority may, instead of proceeding under that section, transmit the proposals to the Secretary of State.
- (2) The Secretary of State shall deal with the proposals in connection with the consideration by him of the compulsory purchase order relating to the premises as if the proposals had been objections to the order made on the date on which they were submitted to the authority.
- (3) If in confirming the order the Secretary of State excludes the premises from the clearance area, the authority shall then proceed in relation to the proposals under section 308 or 310, as the case may be.

*Slum clearance subsidy*

**312 Slum clearance subsidy.**

- (1) Slum clearance subsidy is payable to a local housing authority (for the credit of their general rate fund) for any year in which the authority incur a loss in connection with the exercise of their slum clearance functions.
- (2) For this purpose “slum clearance functions” means functions under the provisions of this Part relating to—
  - (a) the demolition, closing or purchase of unfit premises,
  - (b) the demolition of obstructive buildings, or
  - (c) clearance areas,but does not include functions under section 308 to 311 (owner’s re-development or improvements); and no account shall be taken of expenditure resulting from an order under paragraph 9(1) of Schedule 22 (expenses of owner in opposing compulsory purchase order).
- (3) The amount of the subsidy is 75 per cent. of the loss.
- (4) Payment of the subsidy is subject to the making of a claim for it in such form, and containing such particulars, as the Secretary of State may from time to time determine.

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- (5) The subsidy shall be paid by the Secretary of State at such times and in such manner as the Treasury may direct and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.
- (6) In the provisions of this Part relating to slum clearance subsidy “year” means financial year.

**313 Determination of entitlement to subsidy and amount.**

- (1) The method of determining whether an authority have incurred a loss in connection with the exercise of their slum clearance functions, and the amount of the loss, shall be prescribed by regulations made by the Secretary of State with the concurrence of the Treasury.
- (2) Schedule 12 has effect with respect to the provision which may be made by the regulations.
- (3) The regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The amount of subsidy payable to an authority for a year shall be calculated to the nearest pound, by disregarding an odd amount of 50 pence or less and treating an odd amount exceeding 50 pence as a whole pound.

**314 Power to modify application of subsidy provisions.**

- (1) The Secretary of State may direct that the provisions of this Part relating to slum clearance subsidy apply to a local housing authority subject to modifications.
- (2) The modifications may not increase the sums payable to the authority by way of slum clearance subsidy.
- (3) A direction may be a general direction or a direction for a particular case, and may be given for a period or subject to conditions.
- (4) The modifications, and where applicable the period for which the direction is given and any conditions subject to which it is given, shall be specified in the direction.
- (5) A direction may be revoked by the Secretary of State or varied by a further direction.

*Miscellaneous*

**315 Power of court to order occupier or owner to permit things to be done.**

- (1) If a person, after receiving notice of the intended action—
  - (a) being the occupier of premises, prevents the owner or person having control of the premises, or his officers, servants or agents, from carrying into effect with respect to the premises any of the provisions of this Part, or
  - (b) being the occupier, owner or person having control of premises, prevents an officer, servant or agent of the local housing authority from so doing,a magistrates' court may order him to permit to be done on the premises all things requisite for carrying into effect those provisions.



- (2) A person who fails to comply with an order of the court under this section commits a summary offence and is liable on conviction to a fine not exceeding £20 in respect of each day during which the failure continues.

**316 Power of court to authorise owner to demolish premises on default of another owner.**

- (1) If it appears to a magistrates' court on the application of an owner of premises in respect of which a demolition order, or obstructive building order has been made, that owing to the default of another owner of the premises in demolishing the premises, the interests of the applicant will be prejudiced, the court may make an order empowering the applicant forthwith to enter on the premises, and, within a period fixed by the order, demolish them.
- (2) Where the court makes an order under subsection (1), the court may, where it seems to the court just to do so, make a like order in favour of any other owner.
- (3) Before an order is made under this section, notice of the application shall be given to the local housing authority.

**317 Power of court to determine lease where premises demolished or closed.**

- (1) Where premises in respect of which a demolition or closing order under this Part has become operative form the subject matter of a lease, the lessor or the lessee may apply to the county court for an order determining or varying the lease.
- (2) On the application the court may make such an order if it thinks fit, after giving any sub-lessee an opportunity of being heard.
- (3) The order may be unconditional or subject to such terms and conditions (including conditions with respect to the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise) as the court may think just and equitable to impose, having regard to the respective rights, obligations and liabilities of the parties under the lease and to all the other circumstances of the case.
- (4) In this section “lessor” and “lessee” include a person deriving title under a lessor or lessee.

**318 Power of court to authorise execution of works on unfit premises or for improvement.**

- (1) Where on an application made by a person entitled to any interest in land used in whole or in part as a site for houses the court is satisfied—
  - (a) that the premises on the land are, or are likely to become, dangerous or injurious to health or unfit for human habitation and the interests of the applicant are thereby prejudiced, or
  - (b) that the applicant should be entrusted with the carrying out of a scheme of improvement or reconstruction approved by the local housing authority,the court may make an order empowering the applicant forthwith to enter on the land and within a period fixed by the order execute such works as may be necessary.

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- (2) Where the court makes such an order, it may order that any lease held from the applicant and any derivative lease shall be determined, subject to such conditions and the payment of such compensation as the court may think just.
- (3) The court shall include in its order provisions to secure that the proposed works are carried out and may authorise the local housing authority to exercise such supervision or take such action as may be necessary for the purpose.
- (4) In this section “the court” means the High Court or the county court, where those courts respectively have jurisdiction.

#### *Supplementary provisions*

### **319 Powers of entry.**

- (1) A person authorised by the local housing authority or the Secretary of State may at any reasonable time, on giving 24 hours' notice of his intention to the occupier, and to the owner if the owner is known, enter premises—
  - (a) for the purpose of survey and examination where it appears to the authority or the Secretary of State that survey or examination is necessary in order to determine whether any powers under this Part should be exercised in respect of the premises; or
  - (b) for the purpose of survey and examination where a demolition or closing order, or an obstructive building order, has been made in respect of the premises; or
  - (c) for the purpose of survey or valuation where the authority are authorised by this Part to purchase the premises compulsorily.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised.

### **320 Penalty for obstruction.**

- (1) It is a summary offence to obstruct an officer of the local housing authority or of the Secretary of State, or any person authorised to enter premises in pursuance of this Part, in the performance of anything which he is by this Part required or authorised to do.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding level 2 on the standard scale.

### **321 Repair at reasonable expense.**

In determining for the purpose of this Part whether premises can be rendered fit for human habitation at a reasonable expense, regard shall be had to the estimated cost of the works necessary to render them so fit and the value which it is estimated they will have when the works are completed.

### **322 Minor definitions.**

In this Part—

“house” includes any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it;

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“owner”, in relation to premises—

(a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion, and

(b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years;

“person having control”, in relation to premises, means the person who receives the rack-rent of the premises (that is, a rent which is not less than two-thirds of the full net annual value of the premises), whether on his own account or as agent or trustee for another person or who would so receive it if the house were let at such a rack-rent.

### 323 Index of defined expressions: Part IX.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

clearance area	section 289(1)
closing order	section 267(2)
demolition order	section 267(1)
district (of a local housing authority)	section 2(1)
fit (or unfit) for human habitation	sections 282 and 604
the full standard (in relation to rehabilitation orders)	section 234(1) and 299(2)
general improvement area	sections 253
house	section 322
land liable to be cleared (in Schedule 11)	paragraph 1(3) of Schedule 11
lease, lessee and lessor	section 621
listed building	section 303
local housing authority	section 1, 2(2)
obstructive building	section 283
obstructive building order	section 284
owner (of premises)	section 322
person having control (of premises)	section 322
prescribed	section 614
reasonable expense	section 321
rehabilitation order	Schedule 11
the Rent Acts	section 622
slum clearance functions (for purposes of slum clearance subsidy)	section 312(2)

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slum clearance subsidy	section 312(1)
standard scale (in reference to the maximum fine on summary conviction)	section 622
underground room	section 280
unfit (or fit) for human habitation	sections 282 and 604
year (for purposes of slum clearance subsidy)	section 312(6)

## PART X

### OVERCROWDING

#### *Definition of overcrowding*

#### **324 Definition of overcrowding.**

A dwelling is overcrowded for the purposes of this Part when the number of persons sleeping in the dwelling is such as to contravene—

- (a) the standard specified in section 325 (the room standard), or
- (b) the standard specified in section 326 (the space standard).

#### **325 The room standard.**

- (1) The room standard is contravened when the number of persons sleeping in a dwelling and the number of rooms available as sleeping accommodation is such that two persons of opposite sexes who are not living together as husband and wife must sleep in the same room.
- (2) For this purpose—
  - (a) children under the age of ten shall be left out of account, and
  - (b) a room is available as sleeping accommodation if it is of a type normally used in the locality either as a bedroom or as a living room.

#### **326 The space standard.**

- (1) The space standard is contravened when the number of persons sleeping in a dwelling is in excess of the permitted number, having regard to the number and floor area of the rooms of the dwelling available as sleeping accommodation.
- (2) For this purpose—
  - (a) no account shall be taken of a child under the age of one and a child aged one or over but under ten shall be reckoned as one-half of a unit, and
  - (b) a room is available as sleeping accommodation if it is of a type normally used in the locality either as a living room or as a bedroom.
- (3) The permitted number of persons in relation to a dwelling is whichever is the less of—
  - (a) the number specified in Table I in relation to the number of rooms in the dwelling available as sleeping accommodation, and

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- (b) the aggregate for all such rooms in the dwelling of the numbers specified in column 2 of Table II in relation to each room of the floor area specified in column 1

No account shall be taken for the purposes of either Table of a room having a floor area of less than 50 square feet.

TABLE I

<i>Number of rooms</i>	<i>Number of persons</i>
1	2
2	3
3	5
4	7½
5 or more	2 for each room

TABLE II

<i>Floor area of room</i>	<i>Number of persons</i>
110 sq. ft. or more	2
90 sq. ft. or more but less than 110 sq.ft.	1½
70 sq. ft. or more but less than 90 sq. ft.	1
50 sq. ft. or more but less than 70 sq. ft.	½

- (4) The Secretary of State may by regulations prescribe the manner in which the floor area of a room is to be ascertained for the purposes of this section; and the regulations may provide for the exclusion from computation, or the bringing into computation at a reduced figure, of floor space in a part of the room which is of less than a specified height not exceeding eight feet.
- (5) Regulations under subsection (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) A certificate of the local housing authority stating the number and floor areas of the rooms in a dwelling, and that the floor areas have been ascertained in the prescribed manner, is prima facie evidence for the purposes of legal proceedings of the facts stated in it.

*Responsibility of occupier*

**327 Penalty for occupier causing or permitting overcrowding.**

- (1) The occupier of a dwelling who causes or permits it to be overcrowded commits a summary offence, subject to subsection (2).
- (2) The occupier is not guilty of an offence—
- (a) if the overcrowding is within the exceptions specified in section 328 or 329 (children attaining age of 10 or visiting relatives), or

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- (b) by reason of anything done under the authority of, and in accordance with any conditions specified in, a licence granted by the local housing authority under section 330.
- (3) A person committing an offence under this section is liable on conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £2 in respect of every day subsequent to the date on which he is convicted on which the offence continues.

**328 Exception: children attaining age of 1 or 10.**

- (1) Where a dwelling which would not otherwise be overcrowded becomes overcrowded by reason of a child attaining the age of one or ten, then if the occupier—
  - (a) applies to the local housing authority for suitable alternative accommodation, or
  - (b) has so applied before the date when the child attained the age in question, he does not commit an offence under section 327 (occupier causing or permitting overcrowding), so long as the condition in subsection (2) is met and the occupier does not fail to take action in the circumstances specified in subsection (3).
- (2) The condition is that all the persons sleeping in the dwelling are persons who were living there when the child attained that age and thereafter continuously live there, or children born after that date of any of those persons.
- (3) The exception provided by this section ceases to apply if—
  - (a) suitable alternative accommodation is offered to the occupier on or after the date on which the child attains that age, or, if he has applied before that date, is offered at any time after the application, and he fails to accept it, or
  - (b) the removal from the dwelling of some person not a member of the occupier's family is on that date or thereafter becomes reasonably practicable having regard to all the circumstances (including the availability of suitable alternative accommodation for that person and the occupier fails to require his removal.

**329 Exception; visiting member of family.**

Where the persons sleeping in an overcrowded dwelling include a member of the occupier's family who does not live there but is sleeping there temporarily, the occupier is not guilty of an offence under section 327 (occupier causing or permitting overcrowding) unless the circumstances are such that he would be so guilty if that member of his family were not sleeping there.

**330 Licence of local housing authority.**

- (1) The occupier or intending occupier of a dwelling may apply to the local housing authority for a licence authorising him to permit a number of persons in excess of the permitted number to sleep in the dwelling.
- (2) The authority may grant such a licence if it appears to them that there are exceptional circumstances (which may include a seasonal increase of population) and that it is expedient to do so; and they shall specify in the licence the number of persons authorised in excess of the permitted number.

- (3) The licence shall be in the prescribed form and may be granted either unconditionally or subject to conditions specified in it.
- (4) The local housing authority may revoke the licence at their discretion by notice in writing served on the occupier and specifying a period (at least one month from the date of service) at the end of which the licence will cease to be in force.
- (5) Unless previously revoked, the licence continues in force for such period not exceeding twelve months as may be specified in it.
- (6) A copy of the licence and of any notice of revocation shall, within seven days of the issue of the licence or the service of the notice on the occupier, be served by the local housing authority on the landlord (if any) of the dwelling.

#### *Responsibilities of landlord*

### **331 Penalty for landlord causing or permitting overcrowding.**

- (1) The landlord of a dwelling commits a summary offence if he causes or permits it to be overcrowded.
- (2) He shall be deemed to cause or permit it to be overcrowded in the following circumstances, and not otherwise—
  - (a) if he or a person effecting the letting on his behalf had reasonable cause to believe that the dwelling would become overcrowded in circumstances rendering the occupier guilty of an offence;
  - (b) if he or a person effecting the letting on his behalf failed to make inquiries of the proposed occupier as to the number, age and sex of the persons who would be allowed to sleep in the dwelling;
  - (c) if notice is served on him or his agent by the local housing authority that the dwelling is overcrowded in such circumstances as to render the occupier guilty of an offence and he fails to take such steps as are reasonably open to him for securing the abatement of the overcrowding, including if necessary legal proceedings for possession of the dwelling.
- (3) A person committing an offence under this section is liable on conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £2 in respect of every day subsequent to the day on which he is convicted on which the offence continues.

### **332 Information to be contained in rent book.**

- (1) Every rent book or similar document used in relation to a dwelling by or on behalf of the landlord shall contain—
  - (a) a summary in the prescribed form of the preceding provisions of this Part, and
  - (b) a statement of the permitted number of persons in relation to the dwelling.
- (2) If a rent book or similar document not containing such a summary and statement is used by or on behalf of the landlord, the landlord is guilty of a summary offence and liable on conviction to a fine not exceeding level 1 on the standard scale.
- (3) The local housing authority shall on the application of the landlord or the occupier of a dwelling inform him in writing of the permitted number of persons in relation to the

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dwelling; and a statement inserted in a rent book or similar document which agrees with information so given shall be deemed to be a sufficient and correct statement.

**333 Duty to inform local housing authority of overcrowding.**

- (1) Where it comes to the knowledge of the landlord of a dwelling, or of his agent, that the dwelling is overcrowded, then, except in the cases mentioned in subsection (2), the landlord or, as the case may be, the agent shall give notice of the fact of overcrowding to the local housing authority within seven days after that fact first comes to his knowledge.
- (2) The obligation to notify does not arise in the case of overcrowding which—
  - (a) has already been notified to the local housing authority,
  - (b) has been notified to the landlord or his agent by the local housing authority, or
  - (c) is constituted by the use of the dwelling for sleeping by such number of persons as the occupier is authorised to permit to sleep there by a licence in force under section 330 (licence of local housing authority).
- (3) A landlord or agent who fails to give notice in accordance with this section commits a summary offence and is liable on conviction to a fine not exceeding level 1 on the standard scale.

*Powers and duties of local housing authority*

**334 Duty to inspect, report and prepare proposals.**

- (1) If it appears to the local housing authority that occasion has arisen for a report on overcrowding in their district or part of it, or if the Secretary of State so directs, the authority shall—
  - (a) cause an inspection to be made,
  - (b) prepare and submit to the Secretary of State a report showing the result of the inspection and the number of new dwellings required in order to abate the overcrowding, and
  - (c) unless they are satisfied that the dwellings will be otherwise provided, prepare and submit to the Secretary of State proposals for providing the required number of new dwellings.
- (2) Where the Secretary of State gives a direction under subsection (1), he may after consultation with the local housing authority fix dates before which the performance of their functions under that subsection is to be completed.

**335 Power to require information about persons sleeping in dwelling.**

- (1) The local housing authority may, for the purpose of enabling them to discharge their duties under this Part, serve notice on the occupier of a dwelling requiring him to give them within 14 days a written statement of the number, ages and sexes of the persons sleeping in the dwelling.
- (2) The occupier commits a summary offence if—
  - (a) he makes default in complying with the requirement, or
  - (b) he gives a statement which to his knowledge is false in a material particular, and is liable on conviction to a fine not exceeding level 1 on the standard scale.



**336 Power to require production of rent book.**

- (1) A duly authorised officer of the local housing authority may require an occupier of a dwelling to produce for inspection any rent book or similar document which is being used in relation to the dwelling and is in his custody or under his control.
- (2) On being so required, or within seven days thereafter, the occupier shall produce any such book or document to the officer or at the offices of the authority.
- (3) An occupier who fails to do so commits a summary offence and is liable on conviction to a fine not exceeding level 1 on the standard scale.

**337 Power of entry to determine permitted number of persons.**

- (1) A person authorised by the local housing authority may at any reasonable time, on giving 24 hours' notice of his intention to the occupier, and to the owner if the owner is known, enter premises for the purpose of measuring the rooms of a dwelling in order to ascertain for the purposes of this Part the number of persons permitted to use the dwelling for sleeping.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose for which the entry is authorised.

**338 Notice to abate overcrowding.**

- (1) Where a dwelling is overcrowded in circumstances such as to render the occupier guilty of an offence, the local housing authority may serve on the occupier notice in writing requiring him to abate the overcrowding within 14 days from the date of service of the notice.
- (2) If at any time within three months from the end of that period—
  - (a) the dwelling is in the occupation of the person on whom the notice was served or of a member of his family, and
  - (b) it is overcrowded in circumstances such as to render the occupier guilty of an offence,the local housing authority may apply to the county court which shall order vacant possession of the dwelling to be given to the landlord within such period, not less than 14 or more than 28 days, as the court may determine.
- (3) Expenses incurred by the local housing authority under this section in securing the giving of possession of a dwelling to the landlord may be recovered by them from him by action.

*Supplementary provisions*

**339 Enforcement of this Part.**

- (1) The local housing authority shall enforce the provisions of this Part.
- (2) A prosecution for an offence against those provisions may be brought only—
  - (a) by the local housing authority, or
  - (b) in the case of a prosecution against the authority themselves, with the consent of the Attorney General.

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### **340 Powers of entry.**

- (1) A person authorised by the local housing authority may at all reasonable times, on giving 24 hours' notice to the occupier, and to the owner if the owner is known, enter any premises for the purpose of survey and examination where it appears to the authority that survey or examination is necessary in order to determine whether any powers under this Part should be exercised.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose for which it is given.

### **341 Penalty for obstruction.**

- (1) It is a summary offence to obstruct an officer of the local housing authority, or any person authorised to enter premises in pursuance of this Part, in the performance of anything which he is by this Part required or authorised to do.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding level 2 on the standard scale.

### **342 Meaning of “suitable alternative accommodation”.**

- (1) In this Part “suitable alternative accommodation”, in relation to the occupier of a dwelling, means a dwelling as to which the following conditions are satisfied—
  - (a) he and his family can live in it without causing it to be overcrowded;
  - (b) it is certified by the local housing authority to be suitable to his needs and those of his family as respects security of tenure, proximity to place of work and otherwise, and to be suitable in relation to his means;
  - (c) where the dwelling belongs to the local housing authority, it is certified by them to be suitable to his needs and those of his family as respects accommodation.
- (2) For the purpose of subsection (1)(c) a dwelling containing two bedrooms shall be treated as providing accommodation for four persons, a dwelling containing three bedrooms shall be treated as providing accommodation for five persons and a dwelling containing four bedrooms shall be treated as providing accommodation for seven persons.

### **343 Minor definitions.**

In this Part—

“agent”, in relation to the landlord of a dwelling—

- (a) means a person who collects rent in respect of the dwelling on behalf of the landlord, or is authorised by him to do so, and
- (b) in the case of a dwelling occupied under a contract of employment under which the provision of the dwelling for his occupation forms part of the occupier's remuneration, includes a person who pays remuneration on behalf of the employer, or is authorised by him to do so;

“dwelling” means premises used or suitable for use as a separate dwelling;

“landlord”, in relation to a dwelling—

- (a) Means the immediate landlord of an occupier of the dwelling, and

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- (b) in the case of a dwelling occupied under a contract of employment under which the provision of the dwelling for his occupation forms part of the occupier’s remuneration, includes the occupier’s employer; “owner”, in relation to premises—
- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple, whether in possession or in reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years.

**344 Index of defined expressions:Part X.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

agent (in relation to the landlord of a dwelling)	section 343
district (of a local housing authority)	section 2(1)
dwelling	section 343
landlord	sections 343 and 621
local housing authority	section 1, 2(2)
overcrowding (and related expressions)	section 324
owner	section 343
permitted number (of persons sleeping in a dwelling)	section 326
prescribed	section 614
standard scale (in reference to the maximum fine on summary conviction)	section 622
suitable alternative accommodation	section 342

**PART XI**

**HOUSES IN MULTIPLE OCCUPATION**

*Introductory*

**345 Meaning of “multiple occupation”.**

In this Part “house in multiple occupation” means a house which is occupied by persons who do not form a single household.

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### *Registration schemes*

#### **346 Registration schemes.**

- (1) The local housing authority may make and submit to the Secretary of State for confirmation by him a registration scheme authorising the authority to compile and maintain a register for their district of—
  - (a) houses in multiple occupation, and
  - (b) buildings which comprise separate dwellings, two or more of which do not have a sanitary convenience and personal washing facilities accessible only to those living in the dwelling;and the Secretary of State may if he thinks fit confirm the scheme, with or without modification.
- (2) A registration scheme need not be for the whole of the authority's district and need not be for every description of house or building falling within paragraphs (a) and (b) of subsection (1).
- (3) A registration scheme may—
  - (a) specify the particulars to be inserted in the register,
  - (b) make it the duty of such persons as may be specified by the scheme to notify the authority of the fact that a house or building appears to be registrable and to give the authority as regards such a house or building all or any of the particulars specified in the scheme,
  - (c) make it the duty of such persons as may be specified by the scheme to notify the authority of any change which makes it necessary to alter the particulars inserted in the register as regards a house or building.
- (4) A registration scheme shall not come into force before it has been confirmed but subject to that comes into force on such date as may be fixed by the scheme or, if no date is so fixed, at the expiration of one month after it is confirmed.
- (5) A registration scheme may vary or revoke a previous registration scheme; and the local housing authority may at any time, with the consent of the Secretary of State, by order revoke a registration scheme.
- (6) A person who contravenes or fails to comply with a provision of a registration scheme commits a summary offence and is liable on conviction to a fine not exceeding, except in a case within section 347(4) (which relates to the contravention of certain control provisions), level 2 on the standard scale.

#### **347 Control provisions.**

- (1) A registration scheme may contain control provisions, that is to say, provisions for preventing multiple occupation of a house unless—
  - (a) the house is registered, and
  - (b) the number of households or persons occupying it does not exceed the number registered for it.
- (2) Control provisions may prohibit persons from permitting others to take up residence in a house or part of a house but shall not prohibit a person from taking up or remaining in residence in the house.

- (3) Control provisions shall not apply—
- (a) where the persons occupying the house form only two households, or
  - (b) where, apart from one household (if any), the house is occupied by no more than four persons;
- and shall not affect the continued occupation of a house by the number of households or persons occupying it when the provisions come into force.
- (4) A person convicted of an offence under section 346(6) (contravention or failure to comply with provisions of registration scheme) consisting of a contravention of so much of control provisions as relates—
- (a) to occupation to a greater extent than permitted under those provisions of a house which is not registered, or
  - (b) to occupation of a house which is registered by more households or persons than the registration permits,
- is liable to a fine not exceeding level 4 on the standard scale.

### **348 Control provisions: decisions and appeals.**

- (1) Control provisions may enable the local housing authority—
- (a) to refuse to register or to vary the registration of a house on the ground that the house is unsuitable and incapable of being made suitable for such occupation as would be permitted by virtue of the registration or variation;
  - (b) to refuse to register a house on the ground that the person having control of the house or the person intended to be the person managing the house is not a fit and proper person;
  - (c) to require as a condition of registration or of varying the registration of a house that such works are executed as will make the house suitable for such occupation as will be permitted by virtue of the registration or variation.
- (2) Control provisions shall provide that where the local housing authority refuse to register or vary the registration of a house, or require the execution of works as a condition of doing so, they shall give the applicant a written statement of their reasons.
- (3) Where a person has applied for the registration or the variation of the registration of a house in pursuance of control provisions and the local housing authority—
- (a) notify him that they refuse to register the house or to vary the registration in accordance with the application, or
  - (b) notify him that they require the execution of works as a condition of registering the house or varying the registration in accordance with the application, or
  - (c) do not within five weeks after receiving the application, or such longer period as may be agreed in writing between the authority and the applicant, register the house or vary the registration in accordance with the application,
- the applicant may, within 21 days of being so notified or of the end of the period mentioned in paragraph (c), or such longer period as the authority may in writing allow, appeal to the county court.
- (4) On such an appeal the court may confirm, reverse or vary the decision of the authority; and where the decision of the authority was a refusal to register or vary the registration of a house, the court may direct them to register or vary the registration either in

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accordance with the application as made or in accordance with that application as varied in such manner as the court may direct.

**349 Steps required to inform public about scheme.**

- (1) The local housing authority shall publish notice of their intention to submit a registration scheme to the Secretary of State for confirmation in one or more newspapers circulating in their district at least one month before the scheme is submitted for confirmation.
- (2) As soon as a registration scheme is confirmed by the Secretary of State, the local housing authority shall publish in one or more newspapers circulating in their district a notice—
  - (a) stating the fact that a registration scheme has been confirmed, and
  - (b) describing any steps which will have to be taken under the scheme by those concerned with registrable houses and buildings (other than steps which have only to be taken after a notice from the authority), and
  - (c) naming a place where a copy of the scheme may be seen at all reasonable hours.
- (3) A copy of a registration scheme confirmed by the Secretary of State—
  - (a) shall be printed and deposited at the offices of the local housing authority by whom it was made, and
  - (b) shall at all reasonable hours be open to public inspection without payment; and a copy of the scheme shall on application be furnished to any person on payment of such sum, not exceeding 5p for every copy, as the authority may determine.
- (4) If the local housing authority revoke a registration scheme by order they shall publish notice of the order in one or more newspapers circulating in their district.

**350 Power to require information for purposes of scheme.**

- (1) The local housing authority may—
  - (a) for the purpose of ascertaining whether a house or building is registrable, and
  - (b) for the purpose of ascertaining the particulars to be entered in the register as regards a house or building,require a person who has an estate or interest in, or who lives in, the house or building to state in writing any information in his possession which the authority may reasonably require for that purpose.
- (2) A person who, having been required in pursuance of this section to give information to a local housing authority, fails to give the information, or knowingly makes a mis-statement in respect of it, commits a summary offence and is liable on conviction to a fine not exceeding level 2 on the standard scale.

**351 Proof of scheme and contents of register.**

- (1) If there is produced a printed copy of a registration scheme purporting to be made by a local housing authority, upon which there is endorsed a certificate purporting to be signed by the proper officer of the authority stating—
  - (a) that the scheme was made by the authority,
  - (b) that the copy is a true copy of the scheme, and

- (c) that on a specified date the scheme was confirmed by the Secretary of State, the certificate is prima facie evidence of the facts so stated without proof of the handwriting or official position of the person by whom it purports to be signed.
- (2) A document purporting to be a copy of an entry in a register kept under a registration scheme and to be certified as a true copy by the proper officer of the authority is prima facie evidence of the entry without proof of the handwriting or official position of the person by whom it purports to be signed.

*Fitness for the number of occupants*

**352 Power to require execution of works to render premises fit for number of occupants.**

- (1) The local housing authority may serve a notice under this section where the condition of a house in multiple occupation is, in the opinion of the authority, so far defective with respect to any of the following matters—
- natural and artificial lighting,
  - ventilation,
  - water supply,
  - personal washing facilities,
  - drainage and sanitary conveniences,
  - facilities for the storage, preparation and cooking of food. and for the disposal of waste water, or
  - installations for space heating or for the use of space heating appliances,
- having regard to the number of individuals or households, or both, accommodated for the time being on the premises, as not to be reasonably suitable for occupation by those individuals or households.
- (2) The notice shall specify the works which in the opinion of the authority are required for rendering the premises reasonably suitable—
- (a) for occupation by the individuals and households for the time being accommodated there, or
  - (b) for a smaller number of individuals or households and the number of individuals or households, or both, which, in the opinion of the authority, the premises could reasonably accommodate if the works were carried out.
- (3) The notice may be served—
- (a) on the person having control of the house, or
  - (b) on a person to whom the house is let at a rack-rent or who, as agent or trustee of a person to whom the house is so let, receives rents or other payments from tenants of parts of the house or lodgers in the house;
- and the authority shall inform any other person who is to their knowledge an owner, lessee or mortgagee of the house of the fact that the notice has been served.
- (4) The notice shall require the person on whom it is served to execute the works specified in the notice within such period (of at least 21 days from the service of the notice) as may be so specified; but that period may from time to time be extended by written permission of the authority.
- (5) If the authority are satisfied that—

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- (a) after the service of a notice under this section the number of individuals living on the premises has been reduced to a level which will make the works specified in the notice unnecessary, and
- (b) that number will be maintained at or below that level, whether in consequence of the exercise of the authority's powers under section 354 (power to limit number of occupants of house) or otherwise,

they may withdraw the notice by notifying that fact in writing to the person on whom the notice was served, but without prejudice to the issue of a further notice.

- (6) This section applies to a building which is not a house but comprises separate dwellings two or more of which—
  - (a) are occupied by persons who do not form a single household, or
  - (b) do not have a sanitary convenience and personal washing facilities accessible only to those living in the dwelling.

as it applies to a house in multiple occupation, but not so as to authorise the service in relation to such a building of such a notice as is mentioned in subsection (2)(b) (notice requiring works to make premises fit for smaller numbers of occupants).

### **353 Appeal against notice under s. 352.**

- (1) A person on whom a notice is served under section 352 (notice requiring works to render premises fit for number of occupants), or any other person who is an owner, lessee or mortgagee of the premises to which the notice relates, may, within 21 days from the service of the notice or such longer period as the local housing authority may in writing allow, appeal to the county court.
- (2) The appeal may be on any of the following grounds—
  - (a) that the condition of the premises did not justify the authority, having regard to the considerations set out in subsection (1) of that section, in requiring the execution of the works specified in the notice;
  - (b) in the case of a notice under subsection (2)(b) of that section (notice requiring works to render premises fit for smaller number of occupants), that the number of individuals or households, or both, specified in the notice is unreasonably low;
  - (c) that there has been some informality, defect or error in, or in connection with, the notice;
  - (d) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
  - (e) that the time within which the works are to be executed is not reasonably sufficient for the purpose; or
  - (f) that some other person is wholly or partly responsible for the state of affairs calling for the execution of the works, or will as holder of an estate or interest in the premises derive a benefit from their execution, and ought to pay the whole or a part of the expenses of executing them.
- (3) In so far as an appeal is based on the ground mentioned in subsection (2)(c) the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) If on an appeal the court is satisfied that—
  - (a) the number of persons living in the premises has been reduced, and



- (b) adequate steps have been taken (by the exercise of the local housing authority's powers under section 354 (power to limit number of occupants of house) or otherwise) to prevent that number being again increased.

the court may if it thinks fit revoke the notice or vary the list or works specified in the notice.

- (5) Where the grounds on which an appeal is brought include the ground mentioned in subsection (2)(f), the court, if satisfied that the other person referred to in the notice of appeal has had proper notice of the appeal, may on the hearing of the appeal make such order as it thinks fit with respect to payment to be made by him to the appellant or, where the works are executed by the local housing authority, to the authority.

### **354 Power to limit number of occupants of house.**

- (1) The local housing authority may, for the purpose of preventing the occurrence of, or remedying, a state of affairs calling for the service of a notice or further notice under section 352 (notice requiring execution of works to render house fit for number of occupants)—
  - (a) fix as a limit for the house what is in their opinion the highest number of individuals or households, or both, who should, having regard to the considerations set out in subsection (1) of that section, occupy the house in its existing condition, and
  - (b) give a direction applying that limit to the house.
- (2) The authority may also exercise the powers conferred by subsection (1) in relation to a part of a house; and the authority shall have regard to the desirability of applying separate limits where different parts of a house are, or are likely to be, occupied by different persons.
- (3) Not less than seven days before giving a direction under this section, the authority shall—
  - (a) serve on an owner of the house, and on every person who is to their knowledge a lessee of the house, notice of their intention to give the direction, and
  - (b) post such a notice in some position in the house where it is accessible to those living in the house,and shall afford to any person on whom a notice is so served an opportunity of making representations regarding their proposal to give the direction.
- (4) The authority shall within seven days from the giving of the direction—
  - (a) serve a copy of the direction on an owner of the house and on every person who is to their knowledge a lessee of the house, and
  - (b) post a copy of the direction in some position in the house where it is accessible to those living in the house.
- (5) A direction may be given notwithstanding the existence of a previous direction laying down a higher maximum for the same house or part of a house.
- (6) Where the local housing authority have in pursuance of section 352 served a notice specifying the number of individuals or households, or both, which in the opinion of the authority the house could reasonably accommodate if the works specified in the notice were carried out, the authority may adopt that number in fixing a limit under subsection (1) as respects the house.

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- (7) The powers conferred by this section—
- (a) are exercisable whether or not a notice has been given under section 352, and
  - (b) are without prejudice to the powers conferred by section 358 (overcrowding notices).

**355 Effect of direction under s. 354.**

- (1) Where a direction under section 354 is given (direction limiting number of occupants), it is the duty of—
- (a) the occupier for the time being of the house, or part of a house, to which the direction relates, and
  - (b) any other person who is for the time being entitled or authorised to permit individuals to take up residence in that house or part,
- not to permit the number of individuals or households occupying that house or part to which the direction relates to increase to a number above the limit specified in the direction or, if it is for the time being above that number, not to permit it to increase further.
- (2) A person who knowingly fails to comply with the requirements imposed on him by subsection (1) commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.

**356 Power to require information about occupation of house.**

- (1) The local housing authority may from time to time serve on the occupier of a house or part of a house in respect of which there is in force a direction under section 354 (direction limiting number of occupants) a notice requiring him to furnish them within seven days with a statement in writing giving all or any of the following particulars—
- (a) the number of individuals who are, on a date specified in the notice, living in the house or part of the house, as the case may be;
  - (b) the number of families or households to which those individuals belong;
  - (c) the names of those individuals and of the heads of each of those families or households;
  - (d) the rooms used by those individuals and families or households respectively.
- (2) An occupier who makes default in complying with the requirements of a notice under this section, or furnishes a statement which to his knowledge is false in a material particular, commits a summary offence and is liable on conviction to a fine not exceeding level 2 on the standard scale.

**357 Revocation or variation of direction under s. 354.**

- (1) The local housing authority may, on the application of a person having an estate or interest in a house in respect of which a direction is in force under section 354 (direction limiting number of occupants), having regard to any works which have been executed in the house or any other change of circumstances, revoke the direction or vary it so as to allow more people to be accommodated in the house.
- (2) If the authority refuse such an application or do not within 35 days from the making of such an application, or such further period as the applicant may in writing allow, notify the applicant of their decision, the applicant may appeal to the county court.

- (3) On an appeal the court may revoke the direction or vary it in any manner in which it might have been varied by the authority.

### *Overcrowding*

#### **358 Service of overcrowding notice.**

- (1) Where it appears to the local housing authority in the case of a house in multiple occupation—
- (a) that an excessive number of persons is being accommodated on the premises, having regard to the rooms available, or
  - (b) that it is likely that an excessive number of persons will be accommodated on the premises, having regard to the rooms available.
- they may serve an overcrowding notice on the occupier of the premises or on the person managing the premises, or on both.
- (2) At least seven days before serving an overcrowding notice, the local housing authority shall—
- (a) inform the occupier of the premises and any person appearing to them to be managing the premises, in writing, of their intention to do so, and
  - (b) ensure that, so far as is reasonably possible, every person living in the premises is informed of that intention;
- and they shall afford those persons an opportunity of making representations regarding their proposal to serve the notice.
- (3) If no appeal is brought under section 362, the overcrowding notice becomes operative at the end of the period of 21 days from the date of service, and is final and conclusive as to matters which could have been raised on such an appeal.
- (4) A person who contravenes an overcrowding notice commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.

#### **359 Contents of overcrowding notice.**

- (1) An overcrowding notice shall state in relation to every room on the premises—
- (a) what in th opinion of the local housing authority is the maximum number of persons by whom the room is suitable to be occupied as sleeping accommodation at any one time, or
  - (b) that the room is in their opinion unsuitable to be occupied as sleeping accommodation;
- and the notice may specify special maxima applicable where some or all of the persons occupying the room are under such age as may be specified in the notice.
- (2) An overcrowding notice shall contain either—
- (a) the requirement set out in section 360 (not to permit excessive number of persons to sleep on premises), or
  - (b) the requirement set out in section 361 (not to admit new residents if number of persons is excessive);

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and where the local housing authority have served on a person an overcrowding notice containing the latter requirement, they may at any time withdraw the notice and serve on him in its place an overcrowding notice containing the former requirement.

### **360 Requirement as to overcrowding generally.**

- (1) The first requirement referred to in section 359(2) is that the person on whom the notice is served must refrain from knowingly—
  - (a) permitting a room to be occupied as sleeping accommodation otherwise than in accordance with the notice, or
  - (b) permitting persons to occupy the premises as sleeping accommodation in such numbers that it is not possible to avoid persons of opposite sexes who are not living together as husband and wife sleeping in the same room.
- (2) For the purposes of subsection (1)(b)—
  - (a) children under the age of 12 shall be left out of account, and
  - (b) it shall be assumed that the persons occupying the premises as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded.

### **361 Requirement as to new residents.**

- (1) The second requirement referred to in section 359(2) is that the person on whom the notice is served must refrain from knowingly—
  - (a) permitting a room to be occupied by a new resident as sleeping accommodation otherwise than in accordance with the notice, or
  - (b) permitting a new resident to occupy any part of the premises as sleeping accommodation if that is not possible without persons of opposite sexes who are not living together as husband and wife sleeping in the same room;and for this purpose “new resident” means a person who was not living in the premises immediately before the notice was served.
- (2) For the purposes of subsection (1)(b)—
  - (a) children under the age of 12 shall be left out of account, and
  - (b) it shall be assumed that the persons occupying any part of the premises as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded.

### **362 Appeal against overcrowding notice.**

- (1) A person aggrieved by an overcrowding notice may, within 21 days after the date of service of the notice, appeal to the county court, which may make such order either confirming, quashing or varying the notice as it thinks fit.
- (2) If an appeal is brought the notice does not become operative until—
  - (a) a decision on the appeal confirming the order (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
  - (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the order (with or without variation);

and for this purpose the withdrawal of an appeal has the same effect as a decision confirming the notice or decision appealed against.

**363 Revocation and variation of notice.**

- (1) The local housing authority may at any time, on the application of a person having an estate or interest in the premises—
  - (a) revoke an overcrowding notice, or
  - (b) vary it so as to allow more people to be accommodated on the premises.
- (2) If the authority refuse such an application, or do not within 35 days from the making of the application (or such further period as the applicant may in writing allow) notify the applicant of their decision, the applicant may appeal to the county court.
- (3) On an appeal the court may revoke the notice or vary it in any manner in which it might have been varied by the local housing authority.

**364 Power to require information where notice in force.**

- (1) The local housing authority may from time to time serve on the occupier of premises in respect of which an overcrowding notice is in force a notice requiring him to furnish them within seven days with a statement in writing giving any of the following particulars—
  - (a) the number of individuals who are, on a date specified in the notice, occupying any part of the premises as sleeping accommodation;
  - (b) the number of families or households to which those individuals belong;
  - (c) the names of those individuals and of the heads of each of those families or households;
  - (d) the rooms used by those individuals and families or households respectively.
- (2) A person who—
  - (a) knowingly fails to comply with the requirements of such a notice, or
  - (b) furnishes a statement which he knows to be false in a material particular,commits a summary offence and is liable on conviction to a fine not exceeding level 2 on the standard scale.

**365 Means of escape from fire; general provisions as to exercise powers.**

- (1) If it appears to the local housing authority that a house in multiple occupation is not provided with such means of escape from fire as the authority consider necessary, the authority may exercise such of their powers under—
  - section 366 (power to require execution of works), and
  - section 368 (power to secure that part of house not used for human habitation),as appear to them to be most appropriate.
- (2) The authority shall so exercise those powers if the house is of such description or is occupied in such manner as the Secretary of State may specify by order.
- (3) Before serving a notice under section 366 or accepting an undertaking or making a closing order under section 368, the local housing authority shall consult with the fire authority concerned.

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- (4) An order under subsection (2)—
- (a) may make different provision with respect to different cases or descriptions of case, 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.

**366 Means of escape from fire: power to require execution of works.**

- (1) The local housing authority may serve a notice specifying—
- (a) the works which in the opinion of the local housing authority are required as respects the house to provide the necessary means of escape from fire, or
  - (b) where the authority exercise their powers under section 368 to secure that part of the house is not used for human habitation, such work only as in their opinion is required to provide the means of escape from fire which will be necessary if that part is not so used.
- (2) The notice may be served—
- (a) on the person having control of the house, or
  - (b) on a person to whom the house is let at a rackrent or who as agent or trustee of a person to whom the house is so let, receives rents or other payments from tenants of parts of the house or lodgers in the house;
- and the authority shall inform any other person who is to their knowledge an owner, lessee or mortgagee of the house of the fact that the notice has been served.
- (3) The notice shall require the person on whom it is served to execute the works specified in the notice within such period, not being less than 21 days from the service of the notice, as may be so specified; but that period may from time to time be extended by written permission of the authority.

**367 Appeal against notice under s. 366.**

- (1) A person on whom a notice is served under section 366 (means of escape from fire: notice requiring execution of works), or any other person who is an owner, lessee or mortgagee of the house to which the notice relates, may, within 21 days from the service of the notice, or such longer period as the local housing authority may in writing allow, appeal to the county court.
- (2) The appeal may be on any of the following grounds—
- (a) that the notice is not justified by the terms of that section;
  - (b) that there has been some informality, defect or error in, or in connection with, the notice;
  - (c) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
  - (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose;
  - (e) that some other person is wholly or partly responsible for the state of affairs calling for the execution of the works, or will as the holder of an estate or interest in the premises derive a benefit from their execution, and ought to pay the whole or a part of the expenses of executing them.

- (3) In so far as an appeal is based on the ground mentioned in subsection (2)(b), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds on which an appeal is brought include the ground mentioned in subsection (2)(e), the court, if satisfied that the other person referred to in the notice of appeal has had proper notice of the appeal, may on the hearing of the appeal make such order as it thinks fit with respect to the payment to be made by that other person to the appellant or, where the works are executed by the local housing authority, to the authority.

**368 Means of escape from fire: power to secure that part of house not used for human habitation.**

- (1) If it appears to the local housing authority that the means of escape from fire would be adequate if part of the house were not used for human habitation, they may secure that that part is not so used.
- (2) For that purpose, the authority may, if after consultation with any owner or mortgagee they think fit to do so, accept an undertaking from him that that part will not be used for human habitation without the permission of the authority.
- (3) A person who, knowing that such an undertaking has been accepted—
  - (a) uses the part of the house to which the undertaking relates in contravention of the undertaking, or
  - (b) permits that part of the house to be so used,commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale; and if he so uses it or permits it to be so used after conviction, he commits a further summary offence and is liable on conviction to a fine not exceeding £5 for every day or part of a day on which he so uses it or permits it to be so used.
- (4) If the local housing authority do not accept an undertaking under subsection (2) with respect to a part of a house, or where they have accepted such an undertaking and that part of the house is at any time used in contravention of the undertaking, the authority may make a closing order with respect to that part of the house.
- (5) The provisions of Part IX apply to a closing order under subsection (4) as they apply to a closing order made under section 265 by virtue of section 266(a) (closing order in respect of part of building unfit for human habitation), but with the modification that the ground on which the authority are required to determine the order under section 278(1) (premises rendered fit) shall be that the authority are satisfied that the means of escape from fire with which the house is provided is adequate (owing to a change of circumstances) and will remain adequate if the part of the house with respect to which the order was made is again used for human habitation.
- (6) Nothing in the Rent Acts prevents possession being obtained of a part of a house which in accordance with an undertaking in pursuance of this section cannot for the time being be used for human habitation.

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### *Standards of management*

#### **369 The management code.**

- (1) The Secretary of State may, with a view to providing a code for the management of houses in multiple occupation, by regulations make provision for ensuring that the person managing a house in multiple occupation observes proper standards of management.
- (2) The regulations may, in particular, require the person managing the house to ensure the repair, maintenance, cleansing and good order of—
  - all means of water supply and drainage in the house,
  - kitchens, bathrooms and water closets in common use,
  - sinks and wash-basins in common use,
  - common staircases, corridors and passage ways, and
  - outbuildings, yards and gardens in common use,and to make satisfactory arrangements for the disposal of refuse and litter from the house.
- (3) The regulations may—
  - (a) make different provision for different types of house;
  - (b) provide for keeping a register of the names and addresses of those who are persons managing houses;
  - (c) impose duties on persons who have an estate or interest in a house or part of a house to which the regulations apply as to the giving of information to the local housing authority, and in particular make it the duty of a person who acquires or ceases to hold an estate or interest in the house to notify the authority;
  - (d) impose duties on persons who live in the house for the purpose of ensuring that the person managing the house can effectively carry out the duties imposed on him by the regulations;
  - (e) authorise the local housing authority to obtain information as to the number of individuals or households accommodated in the house;
  - (f) make it the duty of the person managing the house to cause a copy of the order under section 370 applying the regulations to the house, and of the regulations, to be displayed in a suitable position in the house;
  - (g) contain such other incidental and supplementary provisions as may appear to the Secretary of State to be expedient.
- (4) Regulations under this section may vary or replace for the purposes of this section and of the regulations made under it the definition given in section 398 of the “person managing” a house.
- (5) A person who knowingly contravenes or without reasonable excuse fails to comply with a regulation under this section as applied under section 370 in relation to a house commits a summary offence and is liable on conviction to a fine not exceeding level 3 on the standard scale.
- (6) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.



**370 Application of management code to particular houses.**

- (1) If it appears to the local housing authority that a house in multiple occupation is in an unsatisfactory state in consequence of failure to maintain proper standards of management and, accordingly, that it is necessary that the regulations made under section 369 should apply to the house, the authority may by order direct that those regulations shall so apply.
- (2) The order comes into force when it is made.
- (3) The local housing authority shall within seven days from the making of the order—
  - (a) serve a copy of it on an owner of the house and on every person who is to the knowledge of the authority a lessee of the house, and
  - (b) post a copy of it in some position in the house where it is accessible to those living in the house.
- (4) The local housing authority may at any time revoke the order on the application of a person having an estate or interest in the house.
  - (5) An order under this section is a local land charge.

**371 Appeal against making of, or failure to revoke, order under s. 370.**

- (1) A person who is served with a copy of an order under section 370 (order applying management code to house), and any other person who is a lessee of the house in respect of which the order is made, may, within 21 days from the service of the notice, or such longer period as the local housing authority may in writing allow, appeal to the county court on the ground that the making of the order was unnecessary.
- (2) On the appeal the court shall take into account the state of the house at the time of the making of the order as well as at the time the appeal was instituted and shall disregard any improvement in the state of the house between those times unless the court is satisfied that effective steps have been taken to ensure that the house will in future be kept in a satisfactory state.
- (3) If the court allows the appeal it shall revoke the order, but without prejudice to the operation of the order prior to its revocation or to the making of a further order.
- (4) If the local housing authority—
  - (a) refuse an application for the revocation of an order under section 370, or
  - (b) do not within 35 days from the making of such an application, or such further period as the applicant may in writing allow, notify the applicant of their decision,the applicant may appeal to the county court which may, if of opinion that there has been a substantial change in the circumstances since the making of the order, and that it is in other respects just to do so, revoke the order.

**372 Power to require execution of works to remedy neglect of management.**

- (1) If in the opinion of the local housing authority the condition of a house to which an order under section 370 applies (order applying management code) is defective in consequence of—
  - (a) neglect to comply with the requirements imposed by regulations under section 369 (regulations prescribing management code), or

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- (b) in respect of a period falling wholly or partly before the regulations applied to the house, neglect to comply with standards corresponding to the requirements imposed by the regulations,
- the authority may serve on the person managing the house a notice specifying the works which, in the opinion of the authority, are required to make good the neglect.
- (2) If it is not practicable after reasonable inquiry to ascertain the name or address of the person managing the house, the notice may be served by addressing it to him by the description of “manager of the House” (naming the house to which it relates) and delivering it to some person on the premises.
- (3) The notice shall require the person on whom it is served to execute the works specified in the notice within such period, not less than 21 days from the service of the notice, as may be so specified; but that period may from time to time be extended by written permission of the authority.
- (4) Where the authority serve a notice under this section on the person managing a house, they shall inform any other person who is to their knowledge an owner, lessee or mortgagee of the house of the fact that the notice has been served.
- (5) References in this section to the person managing a house have the same meaning as in section 369 (and accordingly are subject to amendment by regulations under that section).

### **373 Appeal against notice under s. 372.**

- (1) A person on whom a notice is served under section 372 (notice requiring works to remedy neglect of management), or any other person who is an owner, lessee or mortgagee of the house to which the notice relates, may, within 21 days from the service of the notice, or such longer period as the local housing authority may in writing allow, appeal to the county court.
- (2) The appeal may be on any of the following grounds—
- (a) that the condition of the house did not justify the local housing authority in requiring the execution of the works specified in the notice;
  - (b) that there has been some informality, defect or error in or in connection with, the notice;
  - (c) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
  - (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose;
  - (e) that some other person is wholly or partly responsible for the state of affairs calling for the execution of the works, or will as the holder of an estate or interest in the premises derive a benefit from their execution and ought to pay the whole or a part of the expenses of executing them.
- (3) In so far as an appeal is based on the ground mentioned in subsection (2)(b), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds on which an appeal is brought include the ground specified in subsection (2)(e), the appellant shall serve a copy of his notice of appeal on each other person referred to, and on the hearing of the appeal the court may make such order

as it thinks fit with respect to the payment to be made by any such other person to the appellant or, where the works are executed by the local housing authority, to the authority.

**374 Application of ss. 369 to 373 to buildings other than houses.**

- (1) The provisions of section 369 to 373 (provisions for remedying inadequate management) apply to—
  - (a) a building which is not a house but comprises separate dwellings two or more of which are occupied by persons who do not form a single household,
  - (b) a building which is not a house but comprises separate dwellings two or more of which do not have a sanitary convenience and personal washing facilities accessible only to those living in the dwelling, and
  - (c) a tenement block in which all or any of the flats are without one or more of the standard amenities,as they apply to a house in multiple occupation.
- (2) In this section—

“tenement block” means a building or a part of a building which was constructed in the form of, and consists of, two or more flats, that is to say, separate sets of premises, whether or not on the same floor, constructed for use for the purpose of a dwelling and forming part of a building from some other part of which they are divided horizontally; and

“the standard amenities” has the same meaning as in Part XV (improvement grants, &c.).
- (3) If the local housing authority make an order under section 370 (order applying management code) as respects a building or tenement block by virtue of this section at a time when another such order is in force as respects one of the dwellings in the building or block, they shall revoke the other order.

*Supplementary provisions as to works notices*

**375 Carrying out of works by local housing authority.**

- (1) If a notice under section 352, 366 or 372 (notices requiring the execution of works) is not complied with, the local housing authority may themselves do the work required to be done by the notice.
- (2) Compliance with a notice means the completion of the works specified in the notice within the period for compliance, which is—
  - (a) if no appeal is brought against the notice, the period specified in the notice with any extension duly permitted by the local housing authority;
  - (b) if an appeal is brought against the notice, and the notice is confirmed in whole or in part on the appeal, the period of 28 days from the final determination of the appeal or such longer period as the court in determining the appeal may fix.
- (3) If, before the expiration of the period for compliance with the notice, the person on whom the notice was served notifies the local housing authority that he is not able to do the work in question, the authority may, if they think fit, themselves do the work forthwith.

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- (4) The provisions of Schedule 10 apply with respect to the recovery by the local housing authority of expenses incurred by them under this section.

**376 Penalty for failure to execute works.**

- (1) A person on whom a notice has been served under section 352, 366 or 372 (notices requiring the execution of works) who wilfully fails to comply with the notice commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.
- (2) The obligation to execute the works specified in the notice continues notwithstanding that the period for compliance has expired; and a person who wilfully fails to comply with that obligation, after being convicted of an offence in relation to the notice under subsection (1) or this subsection, commits a further summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.
- (3) References in this section to compliance with a notice and to the period for compliance shall be construed in accordance with section 375(2).
- (4) No liability arises under subsection (1) if the local housing authority, on being notified in accordance with section 375(3) that the person on whom the notice was served is not able to do the work in question, serve notice that they propose to do the work and relieve him from liability under subsection (1).
- (5) The provisions of this section are without prejudice to the exercise by the local housing authority of their power under section 375 to carry out the works themselves.

**377 Powers of court to facilitate execution of works, &c.**

- (1) Where—
- (a) a person is required by a notice under section 352, 366 or 372 to execute works and
  - (b) another person having an estate or interest in the premises unreasonably refuses to give a consent required to enable the works to be executed,
- the person required to execute the works may apply to the county court and the court may give the necessary consent in place of that other person.
- (2) If a person, after receiving notice of the intended action—
- (a) being the occupier of premises, prevents the owner or his officers, agents, servants or workmen, from carrying into effect with respect to the premises any of the preceding provisions of this Part, or
  - (b) being the owner or occupier of premises, prevents an officer, agent, servant or workman of the local housing authority from so doing,
- a magistrates' court may order him to permit to be done on the premises all things requisite for carrying into effect those provisions.
- (3) A person who fails to comply with an order of the court under subsection (2) commits a summary offence and is liable on conviction to a fine not exceeding level 3 on the standard scale; and if the failure continues, he commits a further summary offence and is liable on conviction to a fine not exceeding £20 for every day or part of a day during which the failure continues.

### **378 Provisions for protection of owners.**

- (1) If an owner of premises who is not the person in receipt of the rents and profits gives notice to the local housing authority of his interest in the premises, the authority shall give to him notice of any proceedings taken by them in relation to the premises under any of the preceding provisions of this Part.
- (2) Nothing in the preceding provisions of this Part prejudices or interferes with the rights or remedies of an owner for breach, non-observance or non-performance of a covenant or contract entered into by a lessee in reference to premises—
  - (a) in respect of which a notice requiring the execution of works is served by the local housing authority under 352, 366 or 372, or
  - (b) as respects which an order under section 370 (order applying management code) is for the time being in force;

and if an owner is obliged to take possession of premises in order to comply with such a notice, the taking possession does not affect his right to avail himself of any such breach, non-observance or non-performance which occurred before he took possession.

### **379 Making of control order.**

- (1) The local housing authority may make a control order in respect of a house in multiple occupation if—
  - (a) a notice has been served in respect of the house under section 352 or 372 (notices requiring the execution of works),
  - (b) a direction has been given in respect of the house under section 354 (direction limiting number of occupants),
  - (c) an order under section 370 is in force in respect of the house (order applying management code), or
  - (d) it appears to the authority that the state or condition of the house is such as to call for the taking of action under any of those sections,and it appears to the authority that the living conditions in the house are such that it is necessary to make the order in order to protect the safety, welfare or health of persons living in the house.
- (2) A control order comes into force when it is made, and as soon as practicable after making a control order the local housing authority shall, in exercise of the powers conferred by the following provisions of this Part and having regard to duties imposed on them by those provisions, enter on the premises and take all such immediate steps as appear to them to be required to protect the safety, welfare or health of persons living in the house.
- (3) As soon as practicable after making a control order the local housing authority shall—
  - (a) post a copy of the order, together with a notice as described in subsection (4), in some position in the house where it is accessible to those living in the house, and
  - (b) serve a copy of the order, together with such a notice on every person who, to the knowledge of the authority, was immediately before the coming into force of the order a person managing or having control of the house or is an owner, lessee or mortgagee of the house.

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- (4) The notice mentioned above shall set out the effect of the order in general terms, referring to the rights of appeal against control orders conferred by this Part and stating the principal grounds on which the local housing authority consider it necessary to make a control order.

**380 Modification of control order where proprietor resides in part of house.**

- (1) The local housing authority may exclude from the provisions of a control order a part of the house which, when the control order comes into force, is occupied by a person who has an estate or interest in the whole of the house.
- (2) Except where a contrary intention appears, references in this Part to the house to which a control order relates do not include a part of the house so excluded from the provisions of the order.

**381 General effect of control order.**

- (1) While a control order is in force the local housing authority—
- (a) have the right to possession of the premises,
  - (b) have the right to do (and authorise others to do) in relation to the premises anything which a person having an estate or interest in the premises would, but for the making of the order, be entitled to do, without incurring any liability to any such person except as expressly provided by this Part, and
  - (c) may, notwithstanding that they do not, under this section, have an interest amounting to an estate in law in the premises, create an interest in the premises which, as near as may be, has the incidents of a leasehold;
- but subject to section 382 as regards the rights of persons occupying parts of the house under existing tenancies or agreements.
- (2) The local housing authority shall not, without the consent in writing of the person or persons who would have power to create the right if the control order were not in force, create in exercise of the powers conferred by this section any right in the nature of a lease or licence which is for a fixed term exceeding one month or is terminable by notice to quit (or an equivalent notice) of more than four weeks.
- (3) Any enactment or rule of law relating to landlords and tenants or leases applies in relation to—
- (a) an interest created under this section, or
  - (b) a lease to which the authority become a party under section 382,
- as if the authority were the legal owner of the premises; but subject to the provisions of section 382, relating to the Rent Acts.
- (4) On the coming into force of a control order any notice direction or order under section 352, 354, 366, 370 or 372 shall cease to have effect as respects the house to which the control order applies, but without prejudice to any criminal liability incurred before the coming into force of the control order, or to the right of the local housing authority to recover any expenses incurred in carrying out works.
- (5) A control order is a local land charge.
- (6) References in any enactment to housing accommodation provided or managed by the local housing authority do not include a house which is subject to a control order.

### **382 Effect of control order on persons occupying house.**

- (1) This section applies to a person who, at the time when a control order comes into force, is occupying part of the house and does not have an estate or interest in the whole of the house.
- (2) Section 381 (general effect of control order) does not affect the rights or liabilities of such a person under a lease, licence or agreement (whether in writing or not) under which he is occupying part of the house at the time when the control order comes into force; and—
  - (a) such a lease, licence or agreement has effect while the control order is in force as if the local housing authority were substituted in it for any party to it who has an estate or interest in the house and is not a person to whom this section applies, and
  - (b) such a lease continues to have effect as near as may be as a lease notwithstanding that the rights of the local housing authority, as substituted for the lessor, do not amount to an estate in law in the premises.
- (3) The provisions which exclude local authority lettings from the Rent Acts, that is—
  - (a) sections 14 to 16 of the Rent Act 1977, and
  - (b) those sections as applied by Schedule 2 to the Rent (Agriculture) Act 1976 and section 5(2) to (4) of that Act,do not apply to a lease or agreement under which a person to whom this section applies is occupying part of the house.
- (4) If immediately before the control order came into force a person to whom this section applies was occupying part of the house under—
  - (a) a protected or statutory tenancy within the meaning of the Rent Act 1977, or
  - (b) a protected occupancy or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976,nothing in this Part prevents the continuance of that tenancy or occupancy or affects the continued operation of either of those Acts in relation to the tenancy or occupancy after the coming into force of the control order.
- (5) So much of the regulations made under section 369 (regulations prescribing management code) as imposes duties on persons who live in a house to which the regulations apply also applies to persons who live in a house as respects which a control order is in force.

### **383 Effect of control order in relation to furniture in case of furnished letting.**

- (1) If on the date on which the control order comes into force there is furniture in the house which a resident in the house has the right to use in consideration of periodical payments to the dispossessed proprietor, whether included in the rent payable by the resident or not, the right to possession of the furniture as against all persons other than the resident vests in the local housing authority on that date and remains vested in the authority while the control order remains in force.
- (2) The authority may, on the application in writing of the person owning such furniture, by notice in writing served on that person not less than two weeks before the notice takes effect, renounce the right to possession of the furniture conferred by subsection (1).

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- (3) If the local housing authority's right to possession of furniture conferred by subsection (1) is a right exercisable as against more than one person interested in the furniture, any of those persons may apply to the county court for an adjustment of their respective rights and liabilities as regards the furniture.
- (4) On such an application the county court may make an order for such an adjustment of rights and liabilities either unconditionally or subject to such terms and conditions (including terms or conditions with respect to the payment of money by a party to the proceedings to another party to the proceedings by way of compensation, damages or otherwise) as it thinks just and equitable.
- (5) In this section "furniture" includes fittings and other articles.

### **384 Appeal against control order.**

- (1) A person having an estate or interest in a house to which a control order relates or, subject to subsection (3), any other person may appeal to the county court against the control order on any of the following grounds—
  - (a) that, whether or not the local housing authority have made an order or issued a notice or direction under any of the provisions of this Part mentioned in section 379(1)(a) to (c) the state or condition of the house was not such as to call for the taking of action under any of those provisions;
  - (b) that it was not necessary to make the control order in order to protect the safety, welfare or health of persons living in the house;
  - (c) where part of the house was occupied by the dispossessed proprietor when the control order came into force, that it was practicable and reasonable for the local housing authority to exercise their powers under section 380 so as to exclude from the provisions of the control order a part of the house (or a greater part than has been excluded);
  - (d) that the control order is invalid on the ground that a requirement of this Part has not been complied with or on the ground of some informality, defect or error in, or in connection with the control order.
- (2) An appeal may be brought at any time after the making of the control order but not later than the expiration of a period of six weeks from the date on which the local housing authority serve a copy of a management scheme relating to the house in accordance with section 386, or such longer period as the authority may in writing allow.
- (3) The court may, before entertaining an appeal brought by a person who had not, when he brought an appeal, an estate or interest in the house, require the appellant to satisfy the court that he may be prejudiced by the making of the order.
- (4) In so far as an appeal is based on the ground that the control order is invalid, the court shall confirm the order unless satisfied that the interests of the appellant have been substantially prejudiced by the facts relied on by him.
- (5) Further provisions as to certain matters arising on the revocation of a control order on appeal are contained in Part III of Schedule 13.
- (6) Subject to the right of appeal conferred by this section, a control order is final and conclusive as to any matter which would have been raised on such an appeal.



**385 General duties of local housing authority when control order is in force.**

- (1) The local housing authority shall—
  - (a) exercise the powers conferred on them by a control order so as to maintain proper standards of management in the house,
  - (b) take such action as is needed to remedy all the matters which they would have considered it necessary to remedy by the taking of action under any other provision of this Act if they had not made a control order, and
  - (c) make reasonable provision for insurance of the premises subject to the control order against destruction or damage by fire or other cause.
- (2) The reference in subsection (1)(c) to the premises subject to the control order includes any part of the premises excluded from the provisions of the order under section 380 (modification of order where proprietor resides in part of the house).
- (3) Premiums paid for the insurance of the premises shall be treated for the purposes of this Part as expenditure incurred by the authority in respect of the premises.

**386 Duty to prepare management scheme.**

- (1) After a control order has been made, the local housing authority shall prepare a management scheme and shall, not later than eight weeks after the date on which the control order comes into force, serve a copy of the scheme on—
  - (a) every person who is, to the knowledge of the authority, a dispossessed proprietor or an owner, lessee or mortgagee of the house, and
  - (b) any other person on whom the authority served a copy of the control order.
- (2) Part I of Schedule 13 has effect with respect to the matters to be provided for in a management scheme and for appeals against such schemes and related matters.
- (3) This section does not affect the powers conferred on the local housing authority by section 381 (general effect of control order), and accordingly the authority may carry out works in a house which is subject to a control order whether or not particulars of the works have been included in a management scheme.

**387 Right of entry for inspection and carrying out of works.**

- (1) The local housing authority, and any person authorised in writing by the authority, have, as against a person having an estate or interest in a house which is subject to a control order, the right at all reasonable times to enter any part of the house for the purpose of survey and examination or of carrying out works.
- (2) The right conferred by subsection (1) is without prejudice to the rights conferred on the authority by section 381 (general effect of control order).
- (3) Where part of a house is excluded from the provisions of a control order under section 380 (modification of order where dispossessed proprietor resides in part of the house), the right conferred by subsection (1) is exercisable as respects that part so far as is reasonably required for the purpose of survey and examination of, or carrying out works in, the part of the house which is subject to the control order.
- (4) If the occupier of part of a house subject to a control order, after receiving notice of the intended action, prevents any officers, agents, servants, or workmen of the local housing authority from carrying out work in the house a magistrates' court may

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order him to permit to be done on the premises anything which the authority consider necessary.

- (5) A person who fails to comply with an order of the court under subsection (4) commits a summary offence and is liable to a fine not exceeding level 3 on the standard scale and to a further fine not exceeding £20 for every day or part of a day during which the failure continues.

**388 Power to supply furniture and fittings.**

The local housing authority may fit out, furnish and supply a house subject to a control order with such furniture, fittings and conveniences as appear to them to be required.

**389 Compensation payable to dispossessed proprietor.**

- (1) The local housing authority shall pay compensation to the dispossessed proprietor—
- (a) in respect of the period during which the control order is in force, at a rate calculated in accordance with Part II of Schedule 13 by reference to the rateable value of the house;
  - (b) in respect of a period during which the authority have the right to possession of furniture in pursuance of section 383 (house subject to furnished letting when control order made), at such rate as the parties agree or is determined in default of agreement by the rent tribunal for the district in which the house is situated.
- (2) Compensation accrues from day to day (and is apportionable in respect of time accordingly) and is payable by quarterly instalments, the first instalment being payable three months after the date when the control order comes into force.
- (3) If at the time when compensation accrues due the estate or interest of the dispossessed proprietor or, as the case may be, the furniture in question is subject to a mortgage or charge, the compensation is also comprised in the mortgage or charge.

**390 Facilities to be afforded to dispossessed proprietor and others.**

- (1) The local housing authority shall—
- (a) keep full accounts of their income and expenditure in respect of a house which is subject to a control order, and
  - (b) afford to the dispossessed proprietor, or any other person having an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts.
- (2) While a control order is in force the local housing authority shall afford to the dispossessed proprietor, or any other person having an estate or interest in the house, any reasonable facilities requested by him for inspecting and examining the house.

**391 Power of court to modify or determine lease.**

- (1) Either the lessor or lessee under a lease of premises which consist of or include a house which is subject to a control order, other than a lease to which section 382(2) applies (leases under which persons are occupying parts of the house and which have effect as if the local housing authority were substituted as landlord), may apply to the county court for an order for the determination of the lease or for its variation.

- (2) If on such an application the court is satisfied that—
  - (a) if the lease is determined and the control order is revoked, the lessor will be in a position, and intends, to take all such action to remedy the condition of the house as the local housing authority consider they would, if a control order had not been in force, have required to be carried out under any provision of this Part, and
  - (b) that the authority intend, if the lease is determined, to revoke the control order, the court shall exercise the jurisdiction conferred by this section so as to determine the lease.
- (3) An order under this section may be unconditional or subject to such terms and conditions as the court thinks just and equitable to impose having regard to the respective rights, obligations and liabilities of the parties under the lease and to the other circumstances.
- (4) The terms and conditions may include terms or conditions with respect to the payment of money by a party to the proceedings to another party to the proceedings, by way of compensation, damages or otherwise.
- (5) An order under this section may include provisions for modifying in relation to the lease the effect of the provisions of paragraph 15 of Schedule 13 (re-transfer of the landlord's interest on the cessation of the control order).

### **392 Expiry or revocation of control order.**

- (1) A control order ceases to have effect at the expiry of the period of five years beginning with the date on which it came into force.
- (2) The local housing authority may at any earlier time, either on application or on their own initiative, by order revoke a control order.
- (3) The authority shall, at least 21 days before revoking a control order, serve notice of their intention to do so on—
  - (a) the persons occupying any part of the house, and
  - (b) every person who is to the knowledge of the authority an owner, lessee or mortgagee of the house.
- (4) If a person applies to the local authority requesting the authority to revoke a control order and giving the grounds on which the application is made, the authority shall if they refuse the application inform the applicant of their decision and of their reasons for rejecting the grounds advanced by him.
- (5) Where the local housing authority propose to revoke a control order under this section on their own initiative and apply to the county court under this subsection, the court may approve the taking of any of the following steps to take effect on the revocation of the control order, that is—
  - (a) the serving of a notice under section 352, 366 or 372 (notices requiring the execution of works),
  - (b) the giving of a direction under section 354 (direction limiting number of occupants of house), or
  - (c) the making of an order under section 370 (order applying management code to house);and no appeal lies against a notice or order so approved.

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### **393 Appeal against refusal to revoke control order.**

- (1) If the local housing authority—
  - (a) refuse an application under section 392 for the revocation of a control order, or
  - (b) do not within 42 days from the making of such an application or such further period as the applicant may in writing allow, inform him of their decision,the applicant may appeal to the county court and the county court may revoke the order.
- (2) The court shall revoke the control order if—
  - (a) the appellant has an estate or interest in the house which, apart from the rights conferred on the local housing authority by section 381 (general effect of control order) and the rights of persons occupying any part of the house, would give him the right to possession of the house,
  - (b) that estate or interest was, when the control order came into force, subject to a lease for a term of years which has subsequently expired, and
  - (c) the appellant satisfies the court that he is in a position and intends, if the control order is revoked, to demolish or reconstruct the house or to carry out substantial work of construction on the site of the house;and if the court is not so satisfied but would be so satisfied if the date of revocation of the control order were a date later than the hearing of the appeal, the court shall, if the appellant so requires, make an order for the revocation of the control order on that later date.
- (3) If an appeal is brought under this section, the leave of the court is required for the bringing of another appeal against the same order, whether by the same or a different appellant, within the period of six months beginning with the final determination of the previous appeal.
- (4) Further provisions as to certain matters arising on the revocation of a control order on appeal are contained in Part III of Schedule 13.

### **394 Cessation of control order.**

Further provisions as to matters arising on the cessation of a control order are contained in Parts III and IV of Schedule 13—

Part III relates to the cessation of control orders generally, and

Part IV provides for the case where a control order is followed by a compulsory purchase order.

#### *General supplementary provisions*

### **395 Powers of entry.**

- (1) Where it appears to the local housing authority that survey or examination of any premises is necessary in order to determine whether any powers under this Part should be exercised in respect of the premises, a person authorised by the authority may at any reasonable time, on giving 24 hours' notice of his intention to the occupier, and to the owner if the owner is known, enter the premises for the purpose of such a survey and examination.
- (2) A person authorised by the local housing authority may at any reasonable time, without any such prior notice as is mentioned in subsection (1), enter any premises for the

purpose of ascertaining whether an offence has been committed under any of the following provisions of this Part—

- section 346(6) (contravention of or failure to comply with provision of registration scheme),
- section 355(2) (failure to comply with requirements of direction limiting number of occupants of house),
- section 358(4) (contravention of overcrowding notice),
- section 368(3) (use or permitting use of part of house with inadequate means of escape from fire in contravention of undertaking),
- section 369(5) (contravention of or failure to comply with regulations prescribing management code),
- section 376(1) or (2) (failure to comply with notice requiring execution of works).

- (3) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised.

### **396 Penalty for obstruction.**

- (1) It is a summary offence to obstruct an officer of the local housing authority, or any person authorised to enter premises in pursuance of this Part, in the performance of anything which he is by this Part required or authorised to do.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding level 2 on the standard scale.

### **397 Warrant to authorise entry.**

- (1) Where it is shown to the satisfaction of a justice of the peace, on sworn information in writing, that admission to premises specified in the information is reasonably required by a person employed by, or acting on the instructions of, the local housing authority—
- (a) for the purpose of survey and examination to determine whether any powers under this Part should be exercised in respect of the premises, or
  - (b) for the purpose of ascertaining whether an offence has been committed under any of the provisions of this Part listed in section 395(2),
- the justice may by warrant under his hand authorise that person to enter on the premises for those purposes or for such of those purposes as may be specified in the warrant.
- (2) The justice shall not grant the warrant unless he is satisfied—
- (a) that admission to the premises has been refused and, except where the purpose specified in the information is that mentioned in subsection (1)(b), that admission was sought after not less than 24 hours' notice of the intended entry had been given to the occupier, or
  - (b) that application for admission would defeat the purpose of the entry.
- (3) The power of entry conferred by the warrant includes power to enter by force, if need be, and may be exercised by the person on whom it is conferred either alone or together with other persons.
- (4) If the premises are unoccupied or the occupier is temporarily absent, a person entering under the authority of the warrant shall leave the premises as effectively secured against trespassers as he found them.

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- (5) The warrant continues in force until the purpose for which the entry is required is satisfied.

**398 Meaning of “lessee”, “owner”, “person, having control” and similar expressions.**

- (1) In this Part the expressions “lessee”, “owner” “person having an estate or interest”, “person having control”, and “person managing” shall be construed as follows.
- (2) “Lessee” includes a statutory tenant of the premises, and references to a lease or to a person to whom premises are let shall be construed accordingly.
- (3) “Owner”—
- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple of the premises whether in possession or in reversion, and
  - (b) includes also a person holding or entitled to the rents and profits of the premises under a lease having an unexpired term exceeding three years.
- (4) “Person having an estate or interest” includes a statutory tenant of the premises.
- (5) “Person having control” means the person who receives the rack-rent of the premises, whether on his own account or as agent or trustee of another person, or who would so receive it if the premises were let at a rack-rent (and for this purpose a “rack-rent” means a rent which is not less than 2/3rds of the full net annual value of the premises).
- (6) “Person managing”—
- (a) means the person who, being an owner or lessee of the premises, receives, directly or through an agent or trustee, rents or other payments from persons who are tenants of parts of the premises, or who are lodgers, and
  - (b) includes, where those rents or other payments are received through another person as agent or trustee, that other person.

**399 Minor definitions.**

In this Part—

“dispossessed proprietor”, in relation to a house subject to a control order, means the person by whom the rent or other periodical payments to which the local housing authority become entitled on the coming into force of the order would have been receivable but for the making of the order, and the successors in title of that person;

“final determination”, in relation to an appeal, includes the withdrawal of the appeal, which has the same effect for the purposes of this Part as a decision dismissing the appeal;

“house” includes any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it.

**400 Index of defined expressions: Part XI.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

*Status: This is the original version (as it was originally enacted).*

appropriate multiplier	Schedule 13, paragraph 13
control order	section 379(1)
control provisions	section 347(1)
dispossessed proprietor	section 399
district (of a local housing authority)	section 2(1)
district valuer	section 622
expenditure incurred (in respect of a house subject to a control order)	section 385(3) and Schedule 13, paragraph 2(3)
final determination (in relation to an appeal)	section 399
gross value	Schedule 13, paragraphs 8 to 12
house	section 399
house in multiple occupation	section 345
lessee (and “lease” and “let”)	sections 398 and 621
local housing authority	section 1, 2(2)
management code	section 369
management scheme	section 386
overcrowding notice	section 358(1)
owner	section 398(3)
person having control	section 398(5)
person having an estate or interest	section 398(4)
person managing	sections 369(4), 372(5) and 398(6)
registration scheme	section 346
the Rent Acts	section 622
rents or other payments	Schedule 13, paragraph 2(2)
standard scale (in reference to the maximum fine on summary conviction)	section 622
statutory tenant	section 622
surpluses on revenue account as settled by the scheme (in Schedule 13)	Schedule 13, paragraph 2(1)
tenant	section 621

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## PART XII

### COMMON LODGING HOUSES

#### *Introductory*

#### **401 Meaning of “common lodging house”.**

In this Part “common lodging house” means a house (other than a public assistance institution) provided for the purpose of accommodating by night poor persons, not being members of the same family, who resort to it and are allowed to occupy one common room for the purpose of sleeping or eating, and includes, where part only of a house is so used, the part so used.

#### *Regulation of common lodging houses*

#### **402 No person to keep a common lodging house unless registered.**

No person shall keep a common lodging house, or receive a lodger in a common lodging house, unless he is registered as the keeper of the house under this Part.

Provided that, when the registered keeper of a common lodging house dies, his widow or any other member of his family may, for a period not exceeding four weeks from his death or such longer period as the local housing authority may sanction, keep the common lodging house without being registered as the keeper.

#### **403 Register of common lodging house keepers and their houses.**

The local housing authority shall keep a register in which shall be entered—

- (a) the full names and the place of residence of every person registered as the keeper of a common lodging house;
- (b) the situation of every such lodging house;
- (c) the number of persons authorised to be received in the lodging house; and
- (d) the full names and places of residence of any persons who are to act as deputies of the keeper of the lodging house.

#### **404 Provisions with respect to registration.**

- (1) Subject to the following provisions of this section, a local housing authority, on receiving from a person an application in writing—
  - (a) for registration as a keeper of a common lodging house, or
  - (b) for the renewal of his registration,shall register the applicant in respect of the common lodging house named in the application, or renew his registration in respect of it, and issue to him a certificate of registration or renewal
- (2) The authority shall not register an applicant until an officer of the authority has inspected the premises named in the application and has made a report on them.
- (3) The authority may refuse to register, or renew the registration of, an applicant if they are satisfied that—



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- (a) he, or a person employed or proposed to be employed by him at the common lodging house, as a deputy or otherwise, is not a fit person, whether by reason of his age or otherwise, to keep or to be employed at a common lodging house; or
  - (b) the premises are not suitable for use as a common lodging house or are not, as regards sanitation and water supply and in other respects, including means of escape in case of fire, suitably equipped for such use; or
  - (c) the use of the premises as a common lodging house is likely to occasion inconvenience or annoyance to persons residing in the neighbourhood.
- (4) The registration of a person as a keeper of a common lodging house remains in force for such period, not exceeding 13 months, as may be fixed by the authority, but may be renewed by them for a period not exceeding 13 months at any one time.
- (5) If a local housing authority refuse to grant or renew registration, they shall, if required by the applicant, give him a statement in writing of the grounds on which his application is refused.
- (6) A local housing authority shall at any time, on the application of a person registered as the keeper of a common lodging house—
- (a) remove from the register the name of any person entered in it as a deputy of the keeper, or
  - (b) insert the name of any other person (being a person approved by the authority) whom the keeper proposes to employ as a deputy,
- and shall make any consequential alterations in the certificate of registration.

#### **405 Appeals against refusal of registration.**

- (1) A person aggrieved by the refusal of a local housing authority under section 404 to grant or renew registration may appeal to a magistrates' court.
- (2) The time within which an appeal may be brought is 21 days from the date on which notice of the authority's refusal was served on the person desiring to appeal; and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.
- (3) Where such an appeal lies, the document notifying to the person concerned the decision of the authority in the matter shall state the right of appeal to a magistrates' court and the time within which such an appeal may be brought.
- (4) A person aggrieved by a decision of a magistrates' court on such an appeal may appeal to the Crown Court.
- (5) Where on an appeal under this section a court varies or reverses the authority's decision, the authority shall make any necessary entry in the register and issue any necessary certificate.

#### **406 Byelaws as to common lodging houses.**

A local housing authority may, and if so required by the Secretary of State shall, make byelaws—

- (a) for fixing the number of persons who may be received into a common lodging house, and for the separation of the sexes in it;

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- (b) for promoting cleanliness and ventilation in common lodging houses, and requiring the walls and ceilings of such lodging houses to be limewashed, or treated with some other suitable preparation, at specified intervals;
- (c) with respect to the taking of precautions when any case of infectious disease occurs in such a lodging house and
- (d) generally for the well-ordering of such lodging houses.

#### **407 Management and control of common lodging houses.**

- (1) The keeper of a common lodging house shall, if required by the local housing authority to do so, affix, and keep affixed and undefaced and legible, a notice with the words “Registered Common Lodging-house” in some conspicuous place on the outside of the house.
- (2) Either the keeper of the lodging house, or a deputy registered under this Part, shall manage the lodging house and exercise supervision over persons using it, and either the keeper or a deputy so registered shall be at the lodging house continuously between the hours of nine o'clock in the evening and six o'clock in the morning of the following day.
- (3) The local housing authority may by notice require the keeper of a common lodging house in which beggars or vagrants are received to report daily to them, or to such persons as they may direct, every lodger who resorted to the house during the preceding day or night.
- (4) An authority who require such reports to be made shall supply to the keeper of the lodging house schedules to be filled up by him with the information required and to be transmitted by him in accordance with their notice.
- (5) The keeper of a common lodging house, and every other person having the care or taking part in the management of it, shall at all times, if required by an authorised officer of the local housing authority, allow him to have free access to all parts of the house.

#### **408 Offences.**

- (1) It is a summary offence for a person—
  - (a) to contravene or fail to comply with any of the provisions of this Part;
  - (b) being the registered keeper of a common lodging house, to fail to keep the premises suitably equipped for use as such;
  - (c) to apply to be registered as the keeper of a common lodging house at a time when he is, under section 409, disqualified from being so registered; or
  - (d) in an application for registration, or for the renewal of his registration, as the keeper of a common lodging house, to make a statement which he knows to be false.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding level 1 on the standard scale and, subject to subsection (3), to a further fine not exceeding £2 for each day on which the offence continues after conviction.
- (3) The court by which a person is convicted of the original offence may fix a reasonable period from the date of conviction for compliance by the defendant with any directions

given by the court and, where a court has fixed such a period, the daily penalty is not recoverable in respect of any day before the period expires.

**409 Power of court on conviction to cancel registration and to disqualify for re-registration.**

Where the registered keeper of a common lodging house is convicted of—

- (a) an offence under this Part or a byelaw made under it, or
- (b) an offence under section 39(2) or 49(2) of the Public Health (Control of Disease) Act 1984 (failure to notify case of infectious disease or failure to comply with closing order made on account of notifiable disease),

the court by which he is convicted may cancel his registration as a common lodging house keeper and may order that he be disqualified for such period as the court thinks fit from being again registered as such a keeper.

*Enforcement*

**410 Duty of local housing authority to enforce this Part.**

- (1) The local housing authority shall carry this Part into execution.
- (2) Sections 322 to 326 of the Public Health Act 1936 (default powers of Secretary of State and related provisions) apply in relation to failure by a local housing authority to discharge their functions under this Part.

**411 Powers of entry.**

- (1) An authorised officer of a local housing authority may at any reasonable time, on giving 24 hours' notice of his intention to the occupier and producing, if so required, some duly authenticated document showing his authority, enter premises for the purpose—
  - (a) of ascertaining whether there is, or has been, on or in connection with the premises, any contravention of the provisions of this Part or of any byelaw made under it;
  - (b) of ascertaining whether circumstances exist which would authorise or require the authority to take any action under this Part or any such byelaws;
  - (c) for the purpose of taking any action authorised or required by this Part or any such byelaws to be taken by the authority; or
  - (d) generally, for the purpose of the performance by the authority of their functions under this Part or any such byelaws.
- (2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing that there is reasonable ground for entry into premises for any of the purposes mentioned in subsection (1) and—
  - (a) that admission to premises has been refused, or that refusal is apprehended,
  - (b) that the premises are unoccupied or the occupier is temporarily absent, or
  - (c) that the case is one of urgency or that an application for admission would defeat the object of the entry,

he may, by warrant under his hand, authorise the authority by any authorised officer to enter the premises, by force if need be.

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- (3) A warrant shall not be issued unless the justice is satisfied either—
- (a) that notice of the intention to apply for a warrant has been given to the occupier, or
  - (b) that the premises are unoccupied, the occupier is temporarily absent, the case is one of urgency, or the giving of such notice would defeat the object of the entry.
- (4) An authorised officer entering premises by virtue of this section, or of a warrant issued under this section, may take with him such other persons as may be necessary; and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.
- (5) A warrant granted under this section continues in force until the purpose for which the entry is necessary has been satisfied.

**412 Penalty for obstruction.**

- (1) It is a summary offence for a person wilfully to obstruct a person acting in the execution of this Part or of any byelaw or warrant made or issued under it.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding level 1 on the standard scale.

**413 Restriction on right to prosecute.**

Proceedings in respect of an offence created by or under this Part shall not, without the written consent of the Attorney General, be taken by any person other than a party aggrieved or the local housing authority.

*Supplementary provisions*

**414 Evidence in legal proceedings.**

- (1) If in proceedings under this Part it is alleged that the inmates of a house or part of a house are members of the same family, the burden of proving that allegation rests on the person by whom it is made.
- (2) In proceedings under this Part a document purporting to be a copy of an entry in the register of common lodging houses and purporting to be certified as such by the proper officer of the local housing authority shall be prima facie evidence of the matters recorded in the entry.
- (3) The proper officer of the local housing authority shall supply such a certified copy free of charge to any person who applies for it at a reasonable hour.

**415 Power to apply provisions to Crown property.**

Section 341 of the Public Health Act 1936 (power to apply provisions to Crown property) applies to the provisions of this Part as it applies to provisions of that Act.

#### **416 Index of defined expressions: Part XII.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section):—

common lodging house	section 401
local housing authority	section 1, 2(2)
standard scale (in reference to the maximum fine on summary conviction)	section 622

### **PART XIII**

#### **GENERAL FINANCIAL PROVISIONS**

##### *Housing accounts of local housing authorities*

#### **417 The Housing Revenue Account.**

- (1) A local housing authority shall keep an account, called the “Housing Revenue Account”, of the income and expenditure of the authority in respect of—
  - (a) all houses and other buildings which have been provided under Part II (provision of housing),
  - (b) all houses purchased under section 192 (purchase of house found on appeal against repair notice to be unfit and beyond repair at reasonable cost),
  - (c) all dwellings in respect of which a local authority have received assistance under section 1 or section 4(2A) of the Housing (Rural Workers) Act 1926, and
  - (d) all land which has been acquired or appropriated for the purposes of Part II, and such land, houses or other buildings not within the preceding paragraphs as the authority may determine from time to time with the consent of the Secretary of State.
- (2) The consent of the Secretary of State for the purposes of subsection (1) may be given either generally to local housing authorities or to a particular authority or description of authority or in a particular case.
- (3) References in this Part to the houses or other property of an authority within the authority’s Housing Revenue Account are to the houses, dwellings or other property falling within subsection (1).
- (4) A local housing authority not possessing property falling within subsection (1) shall nevertheless keep a Housing Revenue Account if they are entitled to receive income arising from the investment or other use of money borrowed by them for the purpose of—
  - (a) the provision of housing accommodation under Part II, or
  - (b) the purchase of houses under section 192 (houses found on appeal against repair notice to be beyond repair at reasonable cost) or the carrying out of works on houses purchased under that section,

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or if they are entitled to receive income arising from the investment or other use of money derived from the sale or other disposal of dwellings or other property which has at any time been within their Housing Revenue Account.

#### **418 The keeping of the Housing Revenue Account.**

The provisions of Schedule 14 have effect with respect to the keeping of an authority's Housing Revenue Account, as follows—

Part I—Credits to the account.

Part II—Debits to the account.

Part III—Supplementary provisions as to matters arising before 1972.

Part IV—Rate fund contributions.

Part V—Other supplementary provisions.

#### **419 The Housing Repairs Account.**

- (1) A local housing authority who are required to keep a Housing Revenue Account may also keep, in accordance with this section, an account called the "Housing Repairs Account".
- (2) An authority who keep a Housing Repairs Account shall credit to the account—
  - (a) contributions from their Housing Revenue Account,
  - (b) sums received by the authority in connection with the repair or maintenance of houses or other property (within the authority's Housing Revenue Account (either from their tenants or from the sale of scrapped or salvaged materials), and
  - (c) income arising from the investment or other use of money credited to the account.
- (3) The authority shall debit to the account—
  - (a) all expenditure incurred by them in connection with the repair or maintenance of houses or other property within their Housing Revenue Account,
  - (b) such expenditure incurred by them in connection with the improvement or replacement of houses or other property within their Housing Revenue Account as may from time to time be determined by the Secretary of State, and
  - (c) any amount which is carried to the credit of the Housing Revenue Account in accordance with subsection (5);and in this subsection "expenditure" includes loan charges.
- (4) The authority shall secure that sufficient credits are carried to the account to secure that it never shows a debit balance.
- (5) If the authority consider that a credit balance in the account at the end of a year will not be required for the purposes of the account, they may carry some or all of the balance to the credit of their Housing Revenue Account.
- (6) If an authority who have opened a Housing Repairs Account cease to maintain the account, any balance shall be carried to their Housing Revenue Account.
- (7) A determination of the Secretary of State under subsection (3)(b) may be made to apply to local housing authorities generally or to a particular authority or group of authorities and may make different provision in respect of different cases or descriptions of case.

**420 Directions to secure proper accounting.**

- (1) Where it appears to the Secretary of State, as regards a Housing Revenue Account or Housing Repairs Account—
  - (a) that amounts in respect of incomings and outgoings provided for in this Part have not been properly credited or debited to the account, or
  - (b) that amounts in respect of incomings and outgoings not so provided for ought properly to be credited or debited to the account, or
  - (c) that amounts have been improperly credited or debited to the account,he may give directions for the appropriate credits or debits to be made, or for the rectification of the account, as the case may require.
- (2) In the case of incomings and outgoings not provided for in this Part the direction may, instead of directing particular amounts to be credited or debited, direct generally that credits or debits shall be made in respect of incomings and outgoings of a kind specified in the direction.
- (3) Without prejudice to the generality of the preceding provisions, the Secretary of State may give such directions (which may be general directions or directions for a particular case) as to the amounts to be credited or debited to a Housing Revenue Account or Housing Repairs Account as in his opinion will ensure that the account reflects a proper system of internal accounting of the authority.
- (4) Before giving a direction the Secretary of State shall consult—
  - (a) such associations of local authorities as appear to him to be concerned, and
  - (b) any local authority with whom consultation appears to him to be desirable,except where the authorities who are to comply with the direction are all named in it, in which case the Secretary of State shall consult each of those authorities and need not consult any association of local authorities.

*Housing subsidy*

**421 Housing subsidy.**

- (1) Housing subsidy is payable for each year to housing authorities.
- (2) Housing subsidy shall be credited—
  - (a) if paid to a local housing authority, to the authority's Housing Revenue Account, and
  - (b) if paid to another body, to that body's housing account or appropriate housing account.
- (3) Housing subsidy shall be paid by the Secretary of State at such times, in such manner and subject to such conditions as to records, certificates, audit or otherwise as he may, with the agreement of the Treasury, determine.
- (4) Payment of housing subsidy is subject to the making of a claim for it in such form, and containing such particulars, as the Secretary of State may from time to time determine.

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**422 Calculation of housing subsidy for local housing authorities.**

(1) The amount of the housing subsidy payable to a local housing authority for a year (the year of account) shall be calculated from the amounts which, in accordance with sections 423 to 425, are the authority's—

- (a) base amount (BA),
- (b) housing costs differential (HCD), and
- (c) local contribution differential (LCD),

for the year, and shall be so calculated by using the formula

$$\mathbf{BA + HCD - LCD}$$

(2) If the amount so calculated is nil or a negative amount, no housing subsidy is payable to the authority for that year.

**423 The base amount.**

(1) A local housing authority's base amount for a year of account is, subject to any adjustment under subsection (2), the amount calculated for the preceding year under section 422, that is to say, the amount of the housing subsidy payable to the authority for that year or, if none was payable, nil or a negative amount, as the case may be.

(2) If the Secretary of State is of opinion that particular circumstances require it, he may adjust the base amount for any year by increasing or decreasing it, either generally or in relation to any description of authority or any particular authority.

**424 The housing costs differential.**

(1) A local housing authority's housing costs differential for a year of account is the amount by which their reckonable expenditure for that year exceeds their reckonable expenditure for the preceding year (and accordingly is nil or, as the case may be, a negative amount if the reckonable expenditure for the year is the same as or less than that for the preceding year).

(2) A local housing authority's reckonable expenditure for a year is the aggregate of—

- (a) so much of the expenditure incurred by the authority in that year and falling to be debited to the authority's Housing Revenue Account as the Secretary of State may determine, and
- (b) so much of any other expenditure incurred by the authority in that year, or treated as so incurred in accordance with a determination made by the Secretary of State, as the Secretary of State may determine to be taken into account for the purposes of housing subsidy.

(3) A determination may be made for all local housing authorities or different determinations may be made—

- (a) for authorities of different descriptions, or
- (b) for authorities in England and authorities in Wales, or in different parts of England or Wales; or
- (c) for individual authorities;

and a determination may be varied or revoked in relation to all or any of the authorities for which it was made.



- (4) Before making a determination for all local housing authorities the Secretary of State shall consult organisations appearing to him to be representative of local housing authorities.

#### **425 The local contribution differential.**

- (1) A local housing authority's local contribution differential for a year of account is the amount by which their reckonable income for that year exceeds their reckonable income for the preceding year (and accordingly is nil or, as the case may be, a negative amount if their reckonable income for the year is the same as or less than that for the preceding year).
- (2) An authority's reckonable income for a year is the amount which, in accordance with any determination made by the Secretary of State, the authority are assumed to receive for that year as income which they are required to carry to their Housing Revenue Account including—
- (a) any contribution made by the authority out of their general rate fund, and
  - (b) any rent rebate subsidy payable under section 32 of the Social Security and Housing Benefit Act 1982,
- but excluding any other subsidy, grant or contribution.
- (3) A determination shall state the assumptions on which it is based and the method of calculation used in it, and in making it the Secretary of State shall have regard, amongst other things, to past and expected movements in incomes, costs and prices.
- (4) A determination may be made for all local housing authorities or different determinations may be made—
- (a) for authorities of different descriptions, or
  - (b) for authorities in England and authorities in Wales, or in different parts of England and Wales, or
  - (c) for individual authorities.
- (5) Before making a determination for all local housing authorities the Secretary of State shall consult organisations appearing to him to be representative of local housing authorities.
- (6) A determination shall be made known to the authorities for which it is made in the year preceding the year of account for which it is to have effect.

#### **426 Calculation of housing subsidy for other authorities.**

- (1) Sections 422 to 425 (calculation of housing subsidy) apply in relation to new town corporations and the Development Board for Rural Wales as they apply in relation to local housing authorities, but subject to the following provisions of this section.
- (2) In relation to a new town corporation—
- (a) sections 424(2) and 425(2) (reckonable expenditure and income) have effect with the substitution for references to the authority's Housing Revenue Account of references to the corporation's housing account, and
  - (b) section 425(2)(a) (reckonable income to include rate fund contributions) has effect with the substitution for the reference to the authority's general rate fund of a reference to the corporation's general revenue account.

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- (3) In relation to the Board—
- (a) sections 424(2) and 425(2) (reckonable expenditure and income) have effect with the substitution for references to the authority's Housing Revenue Account of references to the Board's housing account, and
  - (b) section 425(2)(a) (reckonable income to include rate fund contributions) has effect with the substitution for the reference to any contribution made by the authority out of their general rate fund of a reference to any contribution made by the Board out of revenue.
- (4) The consultation required by section 424(4) or 425(5) (consultation before making general determinations) shall be with organisations appearing to the Secretary of State to be representative of new town corporations or, as the case may be, with the Developmental Board for Rural Wales.
- (5) The Commission for the New Towns shall be treated as a separate body in respect of each of its new towns.

**427 Recoupment of subsidy in certain cases.**

- (1) Where housing subsidy has been paid to a local housing authority or other body and it appears to the Secretary of State that—
- (a) the purpose for which it was paid has not been fulfilled or not completely or adequately or not without unreasonable delay, and
  - (b) that the case falls within rules published by him,
- he may recover from the authority or other body the whole or such part of the payment as he may determine in accordance with the rules, with interest from such time and at such rates as he may so determine.
- (2) A sum recoverable under this section may, without prejudice to other methods of recovery, be recovered by withholding or reducing housing subsidy.
- (3) The withholding or reduction under this section of housing subsidy for a year does not affect the base amount for the following year.

*Borrowing powers*

**428 Continuance of certain powers to borrow for housing purposes.**

- (1) A local authority may borrow for any of the purposes for which borrowing was, before the commencement of this Act, authorised by—
- section 136(1) of the Housing Act 1957,
  - section 54(1) of the Housing (Financial Provisions) Act 1958, or
  - paragraph 19 of Schedule 8 to the Housing Act 1969.
- (2) The maximum period which may be sanctioned as the period for which money may be borrowed for any of those purposes by the Common Council of the City of London is 80 years, notwithstanding the provisions of any Act of Parliament.

*Miscellaneous*

**429 The improvement for sale scheme.**

- (1) The Secretary of State may, with the consent of the Treasury, make schemes for making contributions to the net cost (as determined under the schemes) to local housing authorities of disposing of dwellings where the authority—
  - (a) disposes of a house as one dwelling,
  - (b) divides a house into two or more separate dwellings and disposes of them, or
  - (c) combines two houses to form one dwelling and disposes of it,after carrying out works of repair, improvement or conversion.
- (2) The cost towards which contributions may be made under such a scheme shall not exceed, for any one dwelling—
  - (a) in respect of a dwelling in Greater London, £10,000.
  - (b) elsewhere, £7,500,or such other amount as may be prescribed by order of the Secretary of State made with the consent of the Treasury.
- (3) An order under this section—
  - (a) may make different provision in respect of different cases or descriptions of case, 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.
- (4) In this section “house” includes a flat.

**430 Application of capital money received on disposal of land.**

- (1) Capital money received by a local authority in respect of a disposal of, or other dealing with, land held for any of the purposes of this Act shall be applied either in the repayment of debt or for any other purpose for which capital money may properly be applied.
- (2) Where section 27 of the Town and Country Planning Act 1959 (general power to apply capital money without consent) does not apply, the application of capital money in accordance with subsection (1) shall be effected only with the consent of the Secretary of State, except that capital money received in respect of the disposal of, or other dealing with, land held for the purposes of Part II (provision of housing) may, without such consent, be applied by the authority in or towards the purchase of other land for the purposes of Part II.

**431 Control of expenditure by housing authorities on works of conversion or improvement.**

- (1) A local authority or new town corporation may not incur expenses in—
  - (a) providing dwellings by the conversion of houses or other buildings, or
  - (b) carrying out works required for the improvement of dwellings, with or without associated works of repair,except in accordance with proposals submitted by the authority or corporation to the Secretary of State and for the time being approved by him.

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- (2) The Secretary of State’s approval may be given subject to such conditions, and may be varied in such circumstances, as appear to him to be appropriate; but before varying the terms of an approval he shall consult the authority or corporation concerned.
- (3) In this section “dwelling” has the same meaning as in Part XV (grants for works of improvement, repair and conversion).

**432 Superseded contributions, subsidies, grants, and other financial matters.**

The provisions of Schedule 15 have effect with respect to superseded contributions, subsidies, grants and other financial matters, as follows—

Part I—Loans under the Housing (Rural Workers) Acts 1926 to 1942.

Part II—Exchequer contributions for agricultural housing.

Part III—Contributions for improvement of dwellings by housing authorities.

Part IV—Town development subsidy.

*Supplementary*

**433 Minor definitions.**

In this Part—

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

**434 Index of defined expressions: Part XIII.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

base amount	section 423
development corporation	section 4(c)
general rate fund	section 622
hostel	section 622
houses or other property within the account (in reference to the Housing Revenue Account)	section 417(3)
housing authority	section 4(a)
housing costs differential	section 424
Housing Repairs Account	section 419(1)
Housing Revenue Account	section 417(1)
housing subsidy	section 421(1)
loan charges (in relation to the keeping of the Housing Revenue Account)	paragraph 2 of Part V of Schedule 14)
local authority	section 4(e)

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local contribution differential	section 425
local housing authority	section 1, 2(2)
new town corporation	section 4(b)
receiving authority (in Part IV of Schedule 15)	paragraph 6 of that Part
year	section 433
year of account (in relation to housing subsidy)	section 422

## PART XIV

### LOANS FOR ACQUISITION OR IMPROVEMENT OF HOUSING

#### *Local authority mortgages*

#### **435 Power of local authorities to advance money.**

- (1) A local authority may advance money to a person for the purpose of—
  - (a) acquiring a house,
  - (b) constructing a house,
  - (c) converting another building into a house or acquiring another building and converting it into a house, or
  - (d) altering, enlarging, repairing or improving a house,or for the purpose of facilitating the repayment of an amount outstanding on a previous loan made for any of those purposes.
- (2) The authority may make an advance notwithstanding that it is intended that some part of the premises will be used, or continue to be used, otherwise than as a dwelling if it appears to the authority that the principal effect of making the advance would be to meet the applicant's housing needs; and in such a case the premises shall be treated as a building to be converted into a house.
- (3) The authority may make advances whether or not the houses or buildings are in the authority's area.
- (4) An advance may be made in addition to assistance given by the authority in respect of the same house under any other Act or any other provision of this Act.

#### **436 Terms of advance.**

- (1) The provisions of this section have effect with respect to the terms of advances under section 435.
- (2) The advance, together with the interest on it, shall be secured by a mortgage of the land concerned; and an advance shall not be made unless the estate proposed to be mortgaged is either—
  - (a) an estate in fee simple absolute in possession, or

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- (b) an estate for a term of years absolute of which a period of not less than ten years in excess of the period fixed for the repayment of the advance remains unexpired on the date on which the mortgage is executed.
- (3) The amount of the principal of the advance shall not exceed the value of the mortgage security or, as the case may be the value which it is estimated the mortgaged security will bear when the construction, conversion, alteration, enlargement, repair or improvement has been carried out; and the advance shall not be made except after a valuation duly made on behalf of the authority.
- (4) Where the advance is for any of the purposes specified in section 435(1)(b) to (d) (construction, conversion, alteration, enlargement, repair or improvement) it may be made by instalments from time to time as the works progress.
- (5) The mortgage deed shall provide—
  - (a) for repayments of the principal either by instalments of equal or unequal amounts, beginning on the date of the advance or at a later date, or at the end of a fixed period (with or without a provision allowing the authority to extend the period) or on the happening of a specified event before the end of that period, and
  - (b) for the payment of instalments of interest throughout the period beginning on the date of the advance and ending when the whole of the principal is repaid; but subject to section 441 (waiver or reduction of payments in case of property requiring repair or improvement) and to section 446(1)(b) (assistance for first time buyers: part of loan interest-free for up to five years).
- (6) The mortgage deed shall also provide that, notwithstanding the provisions referred to in subsection (5), the balance for the time being unpaid—
  - (a) shall become repayable on demand by the authority in the event of any of the conditions subject to which the advance is made not being complied with, and
  - (b) may, in any event, be repaid on one of the usual quarter-days by the person for the time being entitled to the equity of redemption after one month's written notice of intention to repay has been given to the authority.

**437 Power of local authority on disposal to leave amount outstanding on mortgage.**

On the disposal of a house under section 32 (disposal by local authority of land held for purposes of Part II)—

- (a) by way of sale, or
- (b) by the grant or assignment of a lease at a premium

the local authority may agree to the price or premium, or part of it, and any expenses incurred by the purchaser, being secured by a mortgage of the premises.

**438 Local authority mortgage interest rates.**

- (1) Where after 3rd October 1980 a local authority—
  - (a) advance money for any of the purposes mentioned in section 435, or
  - (b) on the disposal of a house allow, or have to allow, a sum to be left outstanding on the security of the house, or
  - (c) take a transfer of a mortgage in pursuance of section 442 (agreement by local authority to indemnify mortgagee),

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the provision made by them with respect to interest on the sum advanced or remaining outstanding shall comply with the provisions of Schedule 16.

- (2) This section does not prevent a local authority from giving assistance in the manner provided by—
  - section 441 (waiver or reduction of payments in case of property requiring repair or improvement), or
  - section 446(1)(b) (assistance for first-time buyers: part of loan interest-free for up to five years).
- (3) This section does not apply to loans made by local authorities under—
  - section 228 (duty to make loans for improvements required by improvement notice), or
  - section 58(2) of the Housing Associations Act 1985 (financial assistance for housing associations).

#### **439 Requirements as to fitness of premises, &c.**

- (1) Before advancing money under section 435 for the purpose specified in subsection (1)(a) (acquisition of a house), the authority shall satisfy themselves that the house to be acquired is, or will be made, in all respects fit for human habitation.
- (2) Before advancing money for any of the purposes specified in subsection (1)(b) to (d) of that section (construction, conversion, alteration, enlargement, repair or improvement), the authority shall satisfy themselves that the house concerned will when the relevant works have been completed be in all respects fit for human habitation.
- (3) An advance shall not be made for the purpose specified in the closing words of section 435(1) (repayment of previous loan), unless the authority satisfy themselves that the primary effect of the advance will be to meet the housing needs of the applicant by enabling him either—
  - (a) to retain an interest in the house concerned, or
  - (b) to carry out such works in relation to the building or house concerned as would be eligible for an advance under paragraph (c) or (d) of that subsection (conversion, alteration, enlargement, repair or improvement).

#### **440 Deposits in respect of maintenance or repair of mortgaged premises.**

A local authority by whom has been advanced on the mortgage of a house in pursuance of any enactment may accept the deposit by the mortgagor of the sums estimated to be required for the maintenance or repair of the mortgaged premises, and may pay interest on sums so deposited.

#### **441 Waiver or reduction of payments in case of property requiring repair or improvement.**

- (1) Where a local authority—
  - (a) advance money for the acquisition of a house which is in need of repair or improvement, or
  - (b) on the disposal of a house which is in need of repair or improvement allow, or have to allow, a sum to be left outstanding on the security of the house,

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they may, if the conditions stated in subsection (2) are satisfied, give assistance in accordance with this section to the person acquiring the house.

- (2) The conditions are—
  - (a) that the assistance is given in accordance with a scheme which either has been approved by the Secretary of State or conforms with such requirements as may be prescribed, and
  - (b) that the person acquiring the house has entered into an agreement with the local authority to carry out, within a period specified in the agreement, such works of repair or improvement as are so specified.
- (3) The assistance shall take the form of making provision—
  - (a) for waiving or reducing the interest payable on the sum advanced or remaining outstanding, and
  - (b) for dispensing with the repayment of principal,for a period ending not later than five years after the date of the advance or, as the case may be, the date of the disposal.
- (4) In this section “prescribed” means prescribed by order of the Secretary of State made with the consent of the Treasury.
- (5) An order—
  - (a) may make different provision with respect to different cases or descriptions of case, 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.

*Local authority assistance in connection with mortgages*

**442 Agreement by local authority to indemnify mortgagee.**

- (1) A local authority may, with the approval of the Secretary of State, enter into an agreement with—
  - (a) a building society lending on the security of a house, or
  - (b) a recognised body making a relevant advance on the security of a house,whereby, in the event of default by the mortgagor, and in the circumstances and subject to conditions specified in the agreement, the authority binds itself to indemnify the society or body in respect of the whole or part of the mortgagor’s outstanding indebtedness and any loss or expense falling on the society or body in consequence of the mortgagor’s default.
- (2) The agreement may also, if the mortgagor is made party to it, enable or require the authority in specified circumstances to take a transfer of the mortgage and assume rights and liabilities under it, the building society or recognised body being then discharged in respect of them.
- (3) The transfer may be made to take effect—
  - (a) on terms provided for by the agreement (including terms involving the substitution of a new mortgage agreement or modification of the existing one), and



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- (b) so that the authority is treated as acquiring (for and in relation to the purposes of the mortgage) the benefit and burden of all preceding acts, omissions and events.
- (4) The Secretary of State may approve particular agreements or give notice that particular forms of agreement have his approval, and in either case may make his approval subject to conditions.
- (5) The Secretary of State shall before giving notice that a particular form of agreement has his approval consult—
  - (a) in the case of a form of agreement with a building society, the Chief Registrar of Friendly Societies and such organisations representative of building societies and local authorities as the Secretary of State thinks expedient;
  - (b) in the case of a form of agreement with a recognised body, such organisations representative of recognised bodies and local authorities as he thinks expedient.

**443 Local authority contributions to mortgage costs.**

- (1) A local authority may contribute towards costs incurred by a person in connection with a legal charge which secures, or a proposed legal charge which is intended to secure, a relevant advance made or proposed to be made to him by a building society or recognised body.
- (2) The contribution shall not exceed such amount as may be specified by order of the Secretary of State.
- (3) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**444 Recognised bodies and relevant advances for purposes of ss. 442 and 443.**

- (1) The expression “recognised body” in sections 442 and 443 (agreements to indemnify mortgagees and contributions to mortgage costs) means a body specified, or of a class or description specified, by order of the Secretary of State made with the consent of the Treasury.
- (2) An order shall be made by statutory instrument.
- (3) Before making an order varying or revoking a previous order the Secretary of State shall give an opportunity for representations to be made on behalf of a body which, if the order were made, would cease to be a recognised body.
- (4) The expression “relevant advance” in those sections means an advance made to a person whose interest in the house on the security of which the advance is made is, or was, acquired by virtue of a conveyance of the freehold, or a grant or assignment of a long lease, by—
  - a local authority,
  - a new town corporation,
  - an urban development corporation,
  - the Development Board for Rural Wales,
  - the Housing Corporation, or
  - a registered housing association.

*Assistance for first-time buyers***445 Advances to recognised lending institutions to assist first-time buyers.**

- (1) The Secretary of State may make advances to recognised lending institutions enabling them to provide assistance to first-time purchasers of house property in Great Britain where—
  - (a) the purchaser intends to make his home in the property,
  - (b) finance for the purchase of the property (and improvements, if any) is obtained by means of a secured loan from the lending institution, and
  - (c) the purchase price is within the prescribed limits.
- (2) In this section “prescribed” means prescribed by order of the Secretary of State.
- (3) An order—
  - (a) may prescribe different limits for properties in different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

**446 Forms of assistance and qualifying conditions.**

- (1) Assistance under section 445 (assistance for first-time buyers) may be given in the following ways—
  - (a) the secured loan may be financed by the Secretary of State to the extent of £600 (that amount being normally additional to that which the institution would otherwise have lent, but not so that the total loan exceeds the loan value of the property);
  - (b) £600 of the total loan may be made free of interest, and of any obligation to repay principal, for up to five years from the date of purchase; and
  - (c) the institution may provide the purchaser with a bonus on his savings (which bonus shall be tax-exempt) up to a maximum of £110, payable towards the purchase or expenses arising in connection with it.
- (2) The purchaser qualifies for assistance under subsection (1)(a) and (b) (interest-free loan) by satisfying the following conditions with respect to his own savings—
  - (a) that he has been saving with a recognised savings institution for at least two years preceding the date of his application for assistance,
  - (b) that throughout the twelve months preceding that date he had at least £300 of such savings, and
  - (c) that by that date he has accumulated at least £600 of such savings;and he qualifies for assistance under subsection (1)(c) (bonus on savings) by satisfying the conditions specified in paragraphs (a) and (b) above.
- (3) The Secretary of State may allow for the conditions to be relaxed or modified in particular classes of case.
- (4) No assistance shall be given in any case unless the amount of the secured loan is at least £1,600 and amounts to not less than 25 per cent. of the purchase price of the property.
- (5) The Secretary of State may by order made with the consent of the Treasury—
  - (a) alter any of the money sums specified in this section;

- (b) substitute a longer or shorter period for either or both of the periods mentioned in subsection (2)(a) and (b) (conditions as to savings);
  - (c) alter the condition in subsection (2)(c) so as to enable the purchaser to satisfy it with lesser amounts of savings and to enable assistance to be given in such a case according to reduced scales specified in the order;
  - (d) alter the percentage mentioned in subsection (4) (minimum secured loan).
- (6) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

**447 Recognised lending institutions.**

- (1) The lending institutions recognised for the purposes of section 445 (assistance for first-time buyers) are—
- designated building societies,
  - local authorities,
  - new town corporations,
  - the Development Board for Rural Wales,
  - trustee savings banks
  - banks,
  - insurance companies, and
  - friendly societies.
- (2) The Secretary of State may by order made with the consent of the Treasury—
- (a) add to the list in subsection (1), or
  - (b) direct that a named body shall no longer be a recognised lending institution;
- but before making an order under paragraph (b) he shall give an opportunity for representations to be made on behalf of the body concerned.
- (3) An order shall be made by statutory instrument.

**448 Recognised savings institutions.**

- (1) The savings institutions recognised for the purposes of section 446 (qualifying conditions as to savings) are—
- designated building societies
  - local authorities
  - trustee savings banks,
  - banks,
  - friendly societies,
  - the Director of Savings, and
  - the Post Office,
- and savings institutions recognised for the purposes of the corresponding provisions in force in Scotland or Northern Ireland.
- (2) The Secretary of State may by order made with the consent of the Treasury—
- (a) add to the list in subsection (1), or
  - (b) direct that a named body shall no longer be a recognised savings institution;

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but before making an order under paragraph (b) he shall give an opportunity for representations to be made on behalf of the body concerned.

- (3) An order shall be made by statutory instrument.

#### **449 Terms of advances and administration.**

- (1) Advances to lending institutions under section 445 (assistance for first-time buyers) shall be on such terms as to repayment and otherwise as may be settled by the Secretary of State, with the consent of the Treasury, after consultation with lending and savings institutions or organisations representative of them; and the terms shall be embodied in directions issued by the Secretary of State.
- (2) The following matters, among others, may be dealt with in directions issued by the Secretary of State—
- (a) the cases in which assistance is to be provided;
  - (b) the method of determining the loan value of property for the purpose of section 446(1)(a) (limit on total loan);
  - (c) the method of quantifying bonus by reference to savings;
  - (d) the considerations by reference to which a person is or is not to be treated as a first-time purchaser of house property;
  - (e) the steps which must be taken with a view to satisfying the conditions in section 446(2) (conditions as to purchaser's own savings), and the circumstances in which those conditions are or are not to be treated as satisfied;
  - (f) the supporting evidence and declarations which must be furnished by a person applying for assistance, in order to establish his qualification for it, and the means of ensuring that restitution is made in the event of it being obtained by false representations;
  - (g) the way in which amounts paid over by way of assistance are to be repaid to the lending institutions and to the Secretary of State.
- (3) The Secretary of State may, to the extent that he thinks proper for safeguarding the lending institutions, include in the terms an undertaking to indemnify the institutions in respect of loss suffered in cases where assistance has been given.

#### **450 Modifications of building society law.**

- (1) The following provisions apply with respect to an advance by a building society which is partly financed under section 445 (assistance for first-time buyers) or the corresponding Scottish or Northern Ireland provisions—
- (a) so much of the advance as is so financed shall be treated as not forming part of the advance for the purpose of determining whether the advance, or any further advance made within two years of the date of purchase, is beyond the powers of the society.
  - (b) the society, in complying with section 28(3) of the Building Societies Act 1962 (statutory notice to borrower where security taken from third party), shall state the amount of the basic advance without including the amount so financed, and
  - (c) section 41 of the Building Societies Act 1962 (statutory provisions to be set out in society's acknowledgement of loan) does not apply to an acknowledgement for such an advance.

- (2) The following provisions apply with respect to an undertaking of indemnity under section 449(3) or the corresponding Scottish or Northern Ireland provisions—
- (a) the undertaking shall not be treated for any purpose of the Building Societies Act 1962 as additional security for the advance, and
  - (b) section 28 of the Building Societies Act 1962 (statutory notice to borrower where security taken from third party) does not apply by reason only of such an undertaking having been given.

*Miscellaneous*

**451 Loans by Public Works Loan Commissioners.**

- (1) The Public Works Loan Commissioners may lend money for the purpose of constructing or improving houses, or facilitating or encouraging the construction or improvement of houses, to any person entitled to land for an estate in fee simple absolute in possession or for a term of years absolute of which not less than 50 years remains unexpired.
- (2) A loan for any of those purposes, and interest on the loan, shall be secured by a mortgage of—
- (a) the land in respect of which the purpose is to be carried out, and
  - (b) such other land, if any, as may be offered as security for the loan;
- and the money lent shall not exceed three-quarters of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in the land proposed to be so mortgaged.
- (3) Loans may be made by instalments from time to time as the building or other work on land mortgaged under subsection (2) progresses (so, however, that the total amounts lent does not at any time exceed the amount specified in that subsection); and a mortgage may be accordingly made to secure such loans so made.
- (4) If the loan exceeds two-thirds of the value referred to in subsection (2), the Public Works Loan Commissioners shall require, in addition to such a mortgage as is mentioned in that subsection, such further security as they may think fit.
- (5) The period for repayment of the loan shall not exceed 40 years, and no money shall be lent on a mortgage of land or houses unless the estate proposed to be mortgaged is either a fee simple absolute in possession or an estate for a term of years absolute of which not less than 50 years are unexpired at the date of the loan.
- (6) This section does not apply to housing associations; but corresponding provision is made by section 67 of the Housing Associations Act 1985.

**452 Vesting of house in authority entitled to exercise power of sale.**

- (1) Where there has been a disposal of a house by a housing authority and—
- (a) the authority is a mortgagee of the house,
  - (b) the conveyance or grant contains a pre-emption provision in favour of the authority, and
  - (c) within the period during which the pre-emption provision has effect the authority becomes entitled as mortgagee to exercise the power of sale

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conferred by section 101 of the Law of Property Act 1925 or the mortgage deed.

the provisions of Schedule 17 apply with respect to the vesting of the house in the authority.

(2) In subsection (1)—

“disposal” means a conveyance of the freehold or a grant or assignment of a long lease;

“housing authority” means—

a local authority,

a new town corporation,

an urban development corporation,

the Development Board for Rural Wales,

the Housing Corporation, or

a registered housing association;

“pre-emption provision” means a covenant imposing a condition of the kind mentioned in section 33(2)(b) or (c) (right of pre-emption or prohibition of assignment), the limitation specified in section 157(4) (restriction on disposal of dwellings in National Parks, etc.), or any other provision to the like effect.

(3) The vesting of a house under Schedule 17 shall be treated as a relevant disposal for the purposes of—

(a) the provisions of Parts II and V relating to the covenant required by section 35 or 155 (repayment of discount on early disposal), and

(b) any provision of the conveyance or grant to the like effect as the covenant required by those sections.

(4) Where a conveyance or grant executed before 26th August 1984 contains both—

(a) a pre-emption provision within the meaning of subsection (1), and

(b) the covenant required by section 35 or 155 (repayment of discount on early disposal) or any other provision to the like effect.

the latter covenant or provision has effect as from that date with such modifications as may be necessary to bring it into conformity with the provisions of this section.

(5) The preceding provisions of this section do not apply where the conveyance or grant was executed before 8th August 1980.

(6) Where before 8th August 1980 a local authority sold property under the powers of section 104(1) of the Housing Act 1957 (disposal of houses provided under Part V of that Act) and—

(a) part of the price was secured by a mortgage of the property,

(b) such a condition was imposed on the sale as was mentioned in section 104(3) (c) of that Act, and

(c) within the period during which the authority has the right to re-acquire the property they become entitled to exercise the power of sale conferred by section 101 of the Law of Property Act 1925 or by the mortgage deed,

the provisions of Schedule 17 apply with respect to the vesting of the property in the authority, but subject to the modifications specified in paragraph 4 of that Schedule.

**453 Further advances in case of disposal on shared ownership lease.**

(1) Where—

- (a) a lease of a house, granted otherwise than in pursuance of the provisions of part V (the right to buy) relating to shared ownership leases, contains a provision to the like effect as that required by paragraph 1 of Schedule 8 (terms of shared ownership lease: right of tenant to acquire additional shares), and
- (b) a housing authority has, in the exercise of any of its powers, left outstanding or advanced any amount on the security of the house.

that power includes power to advance further amounts for the purpose of assisting the tenant to make payments in pursuance of that provision.

(2) In subsection (1) “housing authority” means—

- a local authority,
- a new town corporation,
- the Development Board for Rural Wales, or
- a registered housing association.

**454 Exclusion of Restrictive Trade Practices Act: recommendations as to implementation of this Part.**

Section 16(3) and (5) of the Restrictive Trade Practices Act 1976 (recommendations by services supply associations to members) do not apply to—

- (a) recommendations made to building societies or recognised bodies about the making of agreements under section 442 (local authority agreements to indemnify mortgagees) or the corresponding Northern Ireland provision, or
- (b) recommendations made to lending institutions and savings institutions about the manner of implementing sections 445 to 449 (assistance for first-time buyers) or the corresponding Scottish or Northern Ireland provisions.

provided that the recommendations are made with the approval of the Secretary of State, or, as the case may be, the Department of the Environment for Northern Ireland, which may be withdrawn at any time on one month’s notice.

**455 Exclusion of Restrictive Trade Practices Act: agreements as to loans on security of new houses.**

(1) In determining for the purposes of the Restrictive Trade Practices Act 1976 whether an agreement between building societies is one to which that Act applies by virtue of an order made, or having effect as if made, under section 11 of that Act (restrictive agreements as to services), no account shall be taken of any term (whether or not subject to exceptions) by which the parties or any of them agree not to grant loans on the security of new houses unless they have been built by or at the direction of a person who is registered with, or has agreed to comply with the standards of house building laid down or approved by, an appropriate body.

(2) In subsection (1)—

“appropriate body” means a body concerned with the specification and control of standards of house building which—

- (a) has its chairman, or the chairman of its board of directors or other governing body, appointed by the Secretary of State, and

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(b) promotes or administers a scheme conferring rights in respect of defects in the condition of houses on persons having or acquiring interest in them; and

“new house” means a building or part of a building intended for use as a private dwelling and not previously occupied as such.

(3) The reference in subsection (1) to a term agreed to by the parties or any of them includes a term to which the parties or any of them are deemed to have agreed by virtue of section 16 of the Restrictive Trade Practices Act 1976 (recommendations of services supply associations).

#### **456 Advances under the Small Dwellings Acquisition Acts.**

The provisions of Schedule 18 have effect with respect to advances made under the Small Dwellings Acquisition Acts 1899 to 1923 before the repeal of those Acts by the Housing (Consequential Provisions) Act 1985.

#### *Supplementary provisions*

#### **457 Meaning of “house” and “house property”.**

In this Part “house” includes—

- (a) any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it, and
- (b) any part of a building which is occupied or intended to be occupied as a separate dwelling including, in particular, a flat;

and “house property” shall be construed accordingly.

#### **458 Minor definitions.**

In this Part—

“the corresponding Northern Ireland provisions” means—

- (a) in relation to section 442 (local authority agreements to indemnify mortgagees), Article 156 of the Housing (Northern Ireland) Order 1981;
- (b) in relation to sections 445 to 449 (assistance for first-time buyers), Part IX of that Order;

“the corresponding Scottish provisions”, in relation to sections 445 to 449 (assistance for first-time buyers), means the Home Purchase Assistance and Housing Corporation Guarantee Act 1978;

“designated building society” means a building society designated for the purposes of the Trustee Investments Act 1961;

“long lease” means a lease creating a long tenancy within the meaning of section 115.

#### **459 Index of defined expressions: Part XIV.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—



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bank	section 622
building society	section 622
corresponding Northern Ireland provisions	section 458
corresponding Scottish provisions	section 458
designated building society	section 458
district valuer	section 622
first time purchaser	section 449(2)(d)
fit for human habitation	section 604
friendly society	section 622
house	section 457
house property	section 457
housing association	section 5(1)
Housing Revenue Account	section 417
insurance company	section 622
local authority	section 4(e)
long lease	sections 115 and 458
new town corporation	section 4(b)
ownership and proprietor (in relation to an advance under the Small Dwellings Acquisition Acts)	paragraphs 9(2) and (3) of Schedule 18
recognised body	section 444(1)
recognised lending institution	section 447
recognised savings institution	section 448
registered housing association	section 5(4)
residence (in relation to an advance under the Small Dwellings Acquisition Acts)	paragraph 9(1) of Schedule 18
statutory conditions (in relation to an advance under the Small Dwellings Acquisition Acts)	paragraph 2 of Schedule 18
trustee savings bank	section 622
urban development corporation	section 4(d)

## PART XV

### GRANTS FOR WORKS OF IMPROVEMENT, REPAIR AND CONVERSION

#### *Main forms of grant assistance*

#### **460 General description of the main grants.**

- (1) The following grants are payable by local housing authorities in accordance with the following provisions of this Part—
  - improvement grants (sections 467 to 473),
  - intermediate grants (sections 474 to 482),
  - special grants (sections 483 to 490), and
  - repairs grants (sections 491 to 498);and references in this Part to grants, without more, are to those grants.
- (2) The grants are payable towards the cost of works required for—
  - (a) the provision of dwellings by the conversion of houses or other buildings,
  - (b) the improvement of dwellings,
  - (c) the repair of dwellings, and
  - (d) the improvement of houses in multiple occupation.
- (3) The grants are not payable where the provision, improvement or repair is by—
  - a local authority,
  - a new town corporation, or
  - the Development Board for Rural Wales.

#### **461 Grant applications.**

- (1) A grant shall be paid by a local housing authority only if an application for it is made to the authority in accordance with the provisions of this Part and is approved by them.
- (2) The application shall specify the premises to which the application relates and contain—
  - (a) particulars of the works in respect of which the grant is sought (referred to in this part as “the relevant works”) and an estimate of their cost, and
  - (b) such other particulars as may be specified by the Secretary of State.
- (3) A local housing authority may not entertain an application for a grant if—
  - (a) the relevant works are or include works which were the relevant works in relation to an application previously approved under the Part, and
  - (b) the applicant is, or is the personal representative of, the person who made the earlier application,except in the circumstances specified in subsection (4).
- (4) Such an application may be entertained if the relevant works have not been begun and either—
  - (a) more than two years have elapsed since the date on which the previous application was approved, or

- (b) the application is made with a view to taking advantage of an order under section 509 (orders varying appropriate percentage for purposes of determining amount of grant).

**462 Preliminary condition: the age of the property.**

- (1) A local housing authority shall not entertain an application for—
  - (a) an improvement grant in respect of works required for the provision of a dwelling by the conversion of a house or other building which was erected after 2nd October 1961, or
  - (b) any grant for the improvement or repair of a dwelling which was provided after 2nd October 1961.unless they consider it appropriate to do so.
- (2) The authority's discretion to entertain such applications is subject to such general or special directions as may be given by the Secretary of State.

**463 Preliminary condition: the interest of the applicant in the property.**

- (1) A local housing authority may entertain an application for a grant only if 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 or have been carried out, or
  - (b) the applicant is a tenant of the dwelling;and references in this part to an "owner's application" or a "tenant's application" shall be construed accordingly.
- (2) In subsection (1)(a) an "owner's interest" means an interest which is either—
  - (a) an estate in fee simple absolute in possession, or
  - (b) a term of years absolute of which not less than five years remain unexpired at the date of the application;and where an authority entertain an owner's application 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.
- (3) In subsection (1)(b) a "tenant" means a person who has in relation to the dwelling—
  - (a) a protected tenancy, protected occupancy or statutory tenancy,
  - (b) a secure tenancy,
  - (c) a tenancy to which section 1 of the Landlord and Tenant Act 1954 applies (long tenancies at low rents) and of which less than five years remain unexpired at the date of the application, or
  - (d) a tenancy which satisfies such conditions as may be prescribed by order of the Secretary of State.
- (4) An authority shall not entertain a tenant's application for an improvement grant in respect of works required for the provision of a dwelling.
- (5) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and

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- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) This section has effect subject to—
  - sections 486 and 494 (works required by statutory notice), and
  - section 513 (parsonages, applications by charities, etc.).

**464 Preliminary condition: certificate as to future occupation.**

- (1) A local housing authority shall not entertain an owner's application, other than an application for a special grant, unless it is accompanied by—
  - (a) a certificate of owner-occupation, or
  - (b) a certificate of availability for letting,in respect of the dwelling, or each of the dwellings for the provision, improvement or repair of which the application is made.
- (2) A local housing authority may refuse to entertain a tenant's application unless it is accompanied by a certificate of availability for letting given by a person from whom the authority could have approved an owner's application.
- (3) A "certificate of owner-occupation" is (except where it is given by personal representatives or trustees) a certificate stating that the applicant intends that, on or before the first anniversary of the certified date and throughout the period of four years beginning on that first anniversary, the dwelling will be the only or main residence of, and will be occupied exclusively by, either—
  - (a) the applicant himself and members of his household (if any), or
  - (b) a person who is a member of the applicant's family, or a grandparent or grandchild of the applicant or his spouse, and members of that person's household (if any).
- (4) Where the application for grant is made by the personal representatives of a deceased person or by trustees, a "certificate of owner-occupation" is a certificate stating that the applicants are personal representatives or trustees and intend that, on or before the first anniversary of the certified date and throughout the period of four years beginning with that first anniversary, the dwelling will be the only or main residence of, and exclusively occupied by, either—
  - (a) a beneficiary and members of his household (if any), or
  - (b) a person related to a beneficiary by being a member of his family or a grandparent or grandchild of the beneficiary or his spouse, and members of that person's household (if any);and in this subsection "beneficiary" means a person who, under the will or intestacy, or, as the case may require, under the terms of the trust, is beneficially entitled to an interest in the dwelling or the proceeds of sale of it.
- (5) A "certificate of availability for letting" is a certificate stating that the person giving the certificate intends that, throughout the period of five years beginning with the certified date—
  - (a) the dwelling will be let or available for letting as a residence, and not for a holiday, to a person other than a member of the family of the person giving the certificate, 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 protected occupier under the Rent (Agriculture) Act 1976).

**465 Restriction on grants for works already begun.**

- (1) A local housing authority may not approve an application for a grant if the relevant works have been begun unless they are satisfied that there were good reasons for beginning the works before the application was approved.
- (2) Subsection (1) has effect subject to sections 486 and 494 (works required by statutory notice).

**466 Grants requiring consent of Secretary of State.**

- (1) The Secretary of State may direct that applications for an improvement grant or intermediate grant of a specified description shall not be approved without his consent.
- (2) Such directions may be given to local housing authorities generally or to a particular local housing authority.
- (3) The Secretary of State's consent may be given generally or with respect to a particular authority or particular description of application.

*Improvement grants*

**467 Works for which improvement grants may be given.**

- (1) The works for which an improvement grant may be given are—
  - (a) works required for the provision of a dwelling by the conversion of a house or other building, or
  - (b) works required for the improvement of a dwelling,  
other than works falling entirely within section 474 (works for which intermediate grant may be given).
- (2) The references in subsection (1) to works required for the provision or improvement of a dwelling include any works of repair or replacement needed, in the opinion of the local housing authority, for the purpose of enabling the dwelling concerned to attain the required standard referred to in section 468.

**468 Required standard to be attained.**

- (1) A local housing authority shall not approve an application for an improvement grant unless they are satisfied that, on completion of the relevant works, the dwelling or, as the case may be, each of the dwellings to which the application relates will attain the required standard.
- (2) A dwelling attains the required standard if—

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- (a) it is provided with all the standard amenities for the exclusive use of its occupants,
  - (b) it is in reasonable repair,
  - (c) it conforms with such requirements with respect to construction and physical conditions and the provision of services and amenities as may for the time being be specified by the Secretary of State for the purposes of this section, and
  - (d) it is likely to provide satisfactory housing accommodation for a period of 30 years.
- (3) If it appears to the authority that it is not practicable at reasonable expense for a dwelling—
- (a) to be provided with all the standard amenities, or
  - (b) to be put into a state of reasonable repair, or
  - (c) to conform in every respect with the requirements referred to subsection (2) (c),
- the authority may, for that dwelling, reduce the required standard by dispensing with the condition in question to such extent as will enable them, if they think fit, to approve the application.
- (4) The authority may also, to the extent that they think fit, dispense with any of the conditions specified in subsection (2)(a) to (c) if they are satisfied that the applicant could not, without undue hardship, finance the cost of the works without the assistance of a grant.
- (5) The authority may, if it appears to them reasonable to do so in any case, reduce the required standard by substituting for the period specified in subsection (2)(d) such shorter period of not less than 10 years as appears to them to be appropriate in the circumstances.

#### **469 Rateable value limit for owner-occupied dwellings.**

- (1) This section applies where an application for an improvement grant in respect of works required for—
- (a) the improvement of a dwelling or dwellings, or
  - (b) the provision of a dwelling or dwellings by the conversion of premises which consist of a house or two or more houses,
- is accompanied by a certificate of owner-occupation relating to that dwelling or, as the case may be, one of those dwellings.
- (2) In a case within subsection (1)(a) the local housing authority shall not approve the application if, on the date of the application, the rateable value of the dwelling to which the certificate relates is in excess of the limit specified under this section.
- (3) In a case within subsection (1)(b) the local housing authority shall not approve the application if, on the date of the application—
- (a) the rateable value of the house or, as the case may be, any of the houses referred to in that paragraph, or
  - (b) where the certificate relates to a dwelling to be provided by the conversion of premises consisting of or including two or more houses, the aggregate of the rateable values of those houses,
- is in excess of the limit specified under this section.

- (4) The Secretary of State may by order made with the consent of the Treasury specify the rateable value limits for the purposes of this section.
- (5) An order—
  - (a) may make different provision with respect to different cases or descriptions of case, 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.
- (6) For the purposes of this section the rateable value on any day of a dwelling or house is—
  - (a) if the dwelling or house is a hereditament for which a rateable value is then shown in the valuation list, that rateable value;
  - (b) if the dwelling or house forms part only of such a hereditament, or consists of or forms part of more than one such hereditament, such value as the local housing authority, after consultation with the applicant as to an appropriate apportionment or aggregation, shall determine.
- (7) This section does not apply—
  - (a) to dwellings in housing action areas, or
  - (b) where the application for an improvement grant is made in respect of a dwelling for a disabled occupant and it appears to the local housing authority that the works are needed to meet a requirement arising from the particular disability from which the disabled occupant suffers.

#### **470 Improvement grants are discretionary.**

- (1) A local housing authority may approve an application for an improvement grant in such circumstances as they think fit.
- (2) Subsection (1) has effect subject to the following provisions (which restrict the cases in which applications may be approved)—
  - section 463(2) (person who proposes to acquire but has not yet acquired an owner's interest),
  - section 465 (works already begun),
  - section 466 (cases in which consent of Secretary of State is required),
  - section 468 (standard of repair to be attained), and
  - section 469 (rateable value limit for owner-occupied dwellings).

#### **471 Improvement grants: estimated expense of works.**

- (1) Where a local housing authority approve an application for an improvement grant, they shall determine the amount of the expenses which in their opinion are proper to be incurred for the execution of the relevant works, and shall notify the applicant of that amount.
- (2) Not more than 50 per cent., or such other percentage as may be prescribed, of the estimated expense of any works shall be allowed for works of repair and replacement.
- (3) If, after an application for a grant has been approved, the authority are satisfied that owing to circumstances beyond the control of the applicant the relevant works will not

be carried out on the basis of the estimate contained in the application, they may, on receiving a further estimate, redetermine the estimated expense in relation to the grant.

- (4) If the applicant satisfies the authority that—
- (a) the relevant works cannot be, or could not have been, carried out without carrying out additional works, and
  - (b) this could not have been reasonably foreseen at the time the application was made,
- the authority may determine a higher amount as the amount of the estimated expense.
- (5) In this section “prescribed” means prescribed by order of the Secretary of State.
- (6) An order—
- (a) may make different provision for different cases or descriptions of case, 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.

#### **472 Improvement grants: limit on expense eligible for grant.**

- (1) Except in a case or description of case in which the Secretary of State approves a higher eligible expense, the eligible expense for the purposes of an improvement grant is so much of the estimated expense as does not exceed the limit determined under this section.
- (2) The limit is the amount for the dwelling or, if the application relates to more than one dwelling, the total of the amounts for each of the dwellings applicable under the following paragraphs—
- (a) for a dwelling which is provided by the conversion of a house or other building consisting of three or more storeys (counting the basement as a storey if all or part of the dwelling is in the basement), £2,400 or such other sum as may be prescribed, and
  - (b) for a dwelling which is improved by the relevant works or is provided by them otherwise than as mentioned in paragraph (a), £2,000 or such other sum as may be prescribed.
- (3) In subsection (2) “prescribed” means prescribed by order of the Secretary of State.
- (4) An order—
- (a) may make different provision for different cases or descriptions of case, 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 the House of Commons.
- (5) If the local housing authority are satisfied in a particular case that there are good reasons for increasing the amount of the limit, they may substitute such higher amount as the Secretary of State may approve; and his approval may be given either with respect to a particular case or with respect to a description of case.



**473 Improvement grants: determination of amount.**

- (1) The amount of an improvement grant shall be fixed by the local housing authority when they approve the application, and shall not exceed the appropriate percentage of the eligible expense.
- (2) The authority shall notify the applicant of the amount of the grant together with the notification under section 471(1) (notification of estimated expense of relevant works).
- (3) Where the authority redetermine the amount of the estimated expense under section 471(3) (new estimate where works cannot be carried out in accordance with original estimate), they shall make such other adjustments relating to the amount of the grant as appear to them to be appropriate; but the amount of the grant shall not be increased beyond the amount which could have been notified when the application was approved if the estimate contained in the application had been of the same amount as the further estimate.
- (4) Where the authority redetermine the amount of the estimated expense under section 471(4) (re-determination where additional works prove necessary), the eligible expense under section 472 shall be re-calculated and if on the recalculation the amount of the eligible expense is greater than it was at the time when the application was approved, the amount of the grant shall be increased and the applicant notified accordingly.

*Intermediate grants***474 Works for which intermediate grants may be given.**

- (1) The works for which an intermediate grant may be given are—
  - (a) works required for the improvement of a dwelling by the provision of a standard amenity where the dwelling lacks an amenity of that description (including works such as are referred to in section 475(3)(b) (works for provision of amenity affected by other relevant works), or
  - (b) works required for the improvement of a dwelling by the provision of a standard amenity where, in the case of a dwelling for a disabled occupant, an existing amenity of the same description is not readily accessible to him by reason of his disability.
- (2) The references in subsection (1) to works required for the improvement of a dwelling by the provision of a standard amenity include any works of repair or replacement which, in the opinion of the local housing authority, are needed for the purpose of putting the dwelling into a state of reasonable repair.

**475 Requirements as to standard amenities provided or to be provided.**

- (1) An application for an intermediate grant shall specify the standard amenity or amenities which it is intended to provide by the relevant works, and if some only of the standard amenities are to be so provided shall state whether the dwelling is already provided with the remainder.
- (2) An application for a grant for such works as are mentioned in section 474(1)(a) (works for provision of standard amenity which is lacking) shall state with respect to each standard amenity to be provided whether to the best of the knowledge and belief of

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the applicant the dwelling has been without that amenity for a period of at least twelve months ending with the date on which the application is made.

- (3) The local housing authority shall not approve such an application unless they are satisfied, with respect to each of the standard amenities to be provided—
- (a) that the dwelling concerned has been without that amenity for a period of at least twelve months ending with the date on which the application is made, or
  - (b) that the dwelling is provided with that amenity on the date of the application but relevant works (other than those for the provision of the amenity) involve, and it would not be reasonably practicable to avoid, interference with or replacement of that amenity.
- (4) An application for an intermediate grant for such works as are mentioned in section 474(1)(b) (works for provision of standard amenity in place of amenity not readily accessible to disabled occupant) shall state that the dwelling possesses the standard amenity in question but that it is not or will not be readily accessible to the disabled occupant by reason of his disability.
- (5) The local housing authority shall not approve such an application unless they are satisfied that the existing amenity in question is not or will not be readily accessible to the disabled occupant by reason of his disability.

**476 Standard of fitness to be attained.**

A local housing authority shall not approve an application for an intermediate grant unless—

- (a) they are satisfied that on completion of the relevant works the dwelling or, as the case may be, each of the dwellings to which the application relates will be fit for human habitation, or
- (b) it seems reasonable in all the circumstances to approve the application even though the dwelling or dwellings will not reach that standard on completion of the relevant works.

**477 Works required by improvement notice or undertaking.**

The following provisions do not apply to an application for an intermediate grant, duly made in accordance with this Part, where the relevant works consist solely of works which the applicant is required to carry out by an improvement notice served or an undertaking accepted under Part VII (improvement notices)—

- section 463 (preliminary condition: interest of applicant in the property),
- section 464 (preliminary condition: certificate of future occupation),
- section 465 (application not to be approved if works already begun),
- section 466 (approval requiring consent of Secretary of State),
- section 475 (requirements as to standard amenities provided or to be provided),
- section 476 (standard of fitness to be attained by dwelling).

**478 Restriction on works of repair or replacement.**

Where the relevant works specified in an application for an intermediate grant include works of repair or replacement which go beyond those needed, in the opinion of the local housing authority, to put the dwelling into reasonable repair, the authority may

with the consent of the applicant treat the application as varied so that the relevant works—

- (a) are confined to works other than works of repair or replacement, or
- (b) include only such works of repair and replacement as (taken with the rest of the relevant works) will, in the opinion of the authority, put the dwelling into reasonable repair,

and may approve the application as so varied.

**479 Intermediate grants are mandatory.**

- (1) A local housing authority shall approve an application for an intermediate grant which is duly made in accordance with the provisions of this Part.
- (2) Subsection (1) has effect subject to the following provisions (which restrict the cases in which applications may be approved)—
  - section 463(2) (person who proposes to acquire but has not yet acquired an owner's interest),
  - section 465 (works already begun),
  - section 466 (cases in which consent of Secretary of State is required),
  - section 475(3) and (5) (requirements as to amenities provided), and
  - section 476 (standard of fitness to be attained).

**480 Intermediate grant: estimated expense of works.**

- (1) Where a local housing authority approve an application for an intermediate grant, they shall determine separately the amount of the expenses which in their opinion are proper to be incurred—
  - (a) for the execution of those of the relevant works which relate solely to the provision of standard amenities, and
  - (b) for the execution of those of the relevant works which consist of works of repair and replacement;and they shall notify the applicant of the amounts so determined by them.
- (2) Where the relevant works make provision for more than one standard amenity of the same description, only one amenity of that description shall be taken into account.
- (3) If, after an application for a grant has been approved, the authority are satisfied that owing to circumstances beyond the control of the applicant the relevant works will not be carried out on the basis of the estimate contained in the application, they may, on receiving a further estimate, redetermine the estimated expense in relation to the grant.
- (4) If the applicant satisfies the authority that—
  - (a) the relevant works cannot be, or could not have been, carried out without carrying out additional works, and
  - (b) that this could not have been reasonably foreseen at the time the application was made,the authority may determine a higher amount under either or both of paragraphs (a) and (b) of subsection (1).

**481 Intermediate grants: limit on expense eligible for grant.**

- (1) Except in a case or description of case in which the Secretary of State approves a higher eligible expense, the eligible expense for the purpose of an intermediate grant is the aggregate of—
  - (a) so much of the estimated expense determined under section 480(1)(a) (expense of provision of standard amenities) as does not exceed the total of the amounts specified in column 2 of the Table in section 508(1) (standard amenities and maximum eligible amounts) in relation to each of the standard amenities to be provided by the relevant works, and
  - (b) so much of the estimated expense determined under section 480(1)(b) (expense of works of repair and replacement) as does not exceed the limit determined under the following provisions of this section.
- (2) The limit referred to in subsection (1)(b) in a case where either—
  - (a) the dwelling will in the opinion of the local housing authority be put on completion of the relevant works into reasonable repair, or
  - (b) it appears to the authority that the applicant could not without undue hardship finance the cost of the works necessary to put the dwelling into reasonable repair,is £2,000 or such other amount as may be prescribed.
- (3) In any other case the limit referred to in subsection (1)(b) is £200, or such other amount as may be prescribed, multiplied by the number of standard amenities to be provided on completion of the relevant works, subject to a maximum of £800 (or such other amount as may be prescribed).
- (4) In this section “prescribed” means prescribed by order of the Secretary of State.
- (5) An order—
  - (a) may make different provision for different cases or descriptions of case, 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 the House of Commons.

**482 Intermediate grants: determination of amount.**

- (1) The amount of an intermediate grant shall be the appropriate percentage of the eligible expense.
- (2) The authority shall notify the applicant of the amount of the grant together with the notification under section 480(1) (notification of estimated expense of relevant works).
- (3) Where the authority redetermine the amount of the estimated expense under section 480(3) (new estimate where works cannot be carried out in accordance with original estimate), they shall make such other adjustments relating to the amount of the grant as appear to them to be appropriate; but the amount of the grant shall not be increased beyond the amount which could have been notified when the application was approved if the estimate contained in the application had been of the same amount as the further estimate.
- (4) Where the authority redetermine the amount of the estimated expense under section 480(4) (redetermination where additional works prove necessary), the eligible expense shall be re-calculated under section 481 and if on the recalculation the amount

of the eligible expense is greater than it was at the time that the application was approved the amount of the grant shall be increased, and the applicant notified, accordingly.

### *Special grants*

#### **483 Works for which special grants may be made.**

- (1) The works for which a special grant may be made are works required for the improvement of a house in multiple occupation by the provision of—
  - (a) standard amenities, or
  - (b) means of escape from fire.
- (2) The reference in subsection (1) to works required for the improvement of a house in multiple occupation in the respects mentioned includes any works of repair or replacement which, in the opinion of the local housing authority, are needed for the purpose of enabling the house to attain the standard of repair required by section 485.

#### **484 Particulars to be stated in application.**

An application for a special grant shall state by how many households and individuals the house concerned is occupied and, as applicable—

- (a) the standard amenities with which it is already provided, and
- (b) the means of escape from fire which are already available.

#### **485 Standard of repair to be attained.**

- (1) The local housing authority shall not approve an application for a special grant unless they are satisfied that on completion of the relevant works the house will be in reasonable repair.
- (2) If in the opinion of the authority the relevant works are more extensive than is necessary for the purpose of securing that the house will attain that standard, the authority may, with the consent of the applicant, treat the application as varied so that the relevant works include only such works as seem to the authority necessary for that purpose; and they may then approve the application as so varied.

#### **486 Mandatory grants for works required notice under Part XI.**

- (1) The local housing authority shall not refuse an application, duly made, for a special grant—
  - (a) in so far as it relates to the provision of standard amenities and the authority are satisfied that the relevant works are necessary for compliance with so much of a notice under section 352 (works required to render house fit for number of occupants) as relates to standard amenities;
  - (b) in so far as it relates to the provision of means of escape from fire and the authority are satisfied that the relevant works are necessary for compliance with a notice under section 366 (works required for provision of means of escape from fire).
- (2) So far as this section applies to an application, the following provisions do not apply—

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section 463 (preliminary conditions: interest of applicant in the property),  
 section 465 (restriction on grants for works already begun), and  
 section 485(1) (standard of repair to be attained).

**487 Special grants not within s. 486 are discretionary.**

- (1) To the extent that the application does not fall within section 486 (mandatory grants for works required by notice under Part XI) the local housing authority may approve an application for a special grant in such circumstances as they think fit.
- (2) Subsection (1) has effect subject to the following provisions (which restrict the cases in which applications may be approved)—
  - section 463(2) (person who proposes to acquire but has not yet acquired an owner's interest),
  - section 465 (works already begun), and
  - section 485 (standard of repair to be attained).

**488 Special grants: estimated expense of works.**

- (1) Where a local authority approve an application for a special grant, they shall determine separately the amounts of the expenses which they think proper to be incurred for those of the relevant works which—
  - (a) consist in providing standard amenities,
  - (b) relate to the provision of means of escape from fire, and
  - (c) consist of works of repair and replacement;
 and they shall notify the applicant of the amounts so determined by them.
- (2) If, after the application for the grant has been approved, the authority are satisfied that owing to circumstances beyond the control of the applicant the relevant works will not be carried out on the basis of the estimate contained in the application, they may, on receiving a further estimate, redetermine the estimated expense in relation to the grant.
- (3) If the applicant satisfied the authority that—
  - (a) the relevant works cannot be, or could not have been, carried out without carrying out additional works, and
  - (b) that this could not have been reasonably foreseen at the time the application was made,
 the authority may determine a higher amount under any of paragraphs (a) to (c) of subsection (1).

**489 Special grants: limit on expense eligible for grant.**

- (1) Except in a case or description of case in which the Secretary of State approves a higher eligible expense, the eligible expense for the purposes of a special grant is the aggregate of the contributory elements specified in the following subsections.
- (2) As regards the provision of standard amenities, the contributory element is so much of the amount determined under section 488(1)(a) as does not exceed the aggregate of the amounts specified in the second column of the Table in section 508(1) (standard amenities and maximum eligible amounts) in relation to each of the standard amenities to be provided by the relevant works (so that, where the relevant works make provision

for more than one standard amenity of the same description, a separate amount shall be aggregated for each of those amenities).

- (3) As regards the provision of means of escape from fire, the contributory element is so much of the amount determined under section 488(1)(b) as does not exceed £6,750 or such other amount as may be prescribed.
- (4) As regards works of repair and replacement, the contributory element is so much of the amount determined under section 488(1)(c) as does not exceed £2,000 or such other amount as may be prescribed.
- (5) In this section “prescribed” means prescribed by order of the Secretary of State.
- (6) An order—
  - (a) may make different provision with respect to different cases of descriptions of case, 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 the House of Commons.

#### **490 Special grants: determination of amount.**

- (1) The amount of a special grant—
  - (a) so far as the grant is made in pursuance of section 486(1) (mandatory grants for works required by notice under Part XI), is the appropriate percentage of the eligible expense, and
  - (b) otherwise, is such as may be fixed by the local housing authority when they approve the application for the grant but shall not exceed the appropriate percentage of the eligible expense.
- (2) The authority shall notify the applicant of the amount of the grant together with the notification under section 488(1) (notification of estimated expense of relevant works).
- (3) Where the authority redetermine the amount of the estimated expense under section 488(2) (new estimate where works cannot be carried out in accordance with original estimate), they shall make such other adjustments relating to the amount of the grant as appear to them to be appropriate; but the amount of the grant shall not be increased beyond the amount which could have been notified when the application was approved if the estimate contained in the application had been of the same amount as the further estimate.
- (4) Where the authority redetermine the amount of the estimated expense under section 488(3) (redetermination where additional works prove necessary), the eligible expense shall be recalculated under section 489 and if on the recalculation the amount is greater than when the application was approved, the amount of the grant shall be increased, and the applicant notified, accordingly.

#### *Repairs grants*

#### **491 Works for which repairs grants may be made.**

- (1) The works for which a repairs grant may be given are works of repair or replacement relating to a dwelling, not being works associated with other works required for the provision of the dwelling by conversion of a house or other building or for the improvement of the dwelling.

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- (2) A local housing authority shall not approve an application for a repairs grant unless—
  - (a) they are satisfied that the relevant works are of a substantial and structural character, or
  - (b) the relevant works satisfy such requirements as may be prescribed for the purposes of this section by order of the Secretary of State made with the consent of the Treasury.
- (3) An order—
  - (a) may make different provision with respect to different cases or descriptions of case, 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.

**492 Dwellings in respect of which repairs grants may be made.**

- (1) An application for a repairs grant shall only be approved if it is made in respect of an old dwelling, as defined by order of the Secretary of State.
- (2) Where an application for a repairs grant is accompanied by a certificate of owner-occupation, and the dwelling is not situated in a housing action area, the application shall only be approved if the rateable value at the date of the application is within the limits specified by order of the Secretary of State made with the consent of the Treasury.
- (3) An order under subsection (1) or (2)—
  - (a) may make different provision with respect to different cases or descriptions of case, 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.

**493 Standard of repair to be attained.**

- (1) The local housing authority shall not approve an application for a repairs grant unless they are satisfied that on completion of the relevant works the dwelling or, as the case may be, each of the dwellings to which the application relates will be in reasonable repair.
- (2) If in the opinion of the authority the relevant works are more extensive than is necessary for the purpose of securing that the dwelling or dwellings attain that standard, the authority may, with the consent of the applicant, treat the application as varied so that the relevant works include only such works as seem to the authority to be necessary for that purpose; and they may then approve the application as so varied.

**494 Mandatory grants for works required by repairs notice.**

- (1) The local housing authority shall not refuse an application, duly made, for a repairs grant so far so far as it relates to the execution of works required by a notice under section 189 or 190 (repair notices) and the authority are satisfied that the works are necessary for compliance with the notice.
- (2) So far as this section applies to an application, the following provisions do not apply—  
section 463 (preliminary condition: interest of applicant in the property),



section 464 (preliminary condition: certificate as to future occupation), and section 465 (restriction on grants for works already begun).

**495 Repairs grants not within s. 494 are discretionary.**

- (1) To the extent that the application does not fall within section 494 (mandatory grants for works required by repairs notice), the local housing authority may approve an application for a repairs grant in such circumstances as they think fit.
- (2) Subsection (1) has effect subject to the following provisions (which restrict the cases in which applications may be approved)—
  - section 463(2) (person who proposes to acquire but has not yet acquired an owner's interest),
  - section 465 (works already begun),
  - section 491(2) (nature of works for which repairs grants may be given),
  - section 492 (dwelling in respect of which repairs grants may be given), and
  - section 493 (standard of repair to be attained).

**496 Repairs grants: estimated expense of works.**

- (1) Where a local housing authority approve an application for a repairs grant, they shall determine the amount of the expenses which in their opinion are proper to be incurred for the execution of the relevant works and shall notify the applicant of that amount.
- (2) If, after an application for a grant has been approved, the authority are satisfied that owing to circumstances beyond the control of the applicant the relevant works will not be carried out on the basis of the estimate contained in the application, they may, on receiving a further estimate, redetermine the estimated expense in relation to the grant.
- (3) If the applicant satisfied the authority that—
  - (a) the relevant works cannot be, or could not have been, carried out without carrying out additional works, and
  - (b) this could not have been reasonably foreseen at the time the application was made,the authority may determine a higher amount under subsection (1).

**497 Repairs grants: limit on expense eligible for grant.**

- (1) Except in a case or description in respect of which the Secretary of State approves a higher eligible expense, the eligible expense for the purpose of a repairs grant is so much of the estimated expense as does not exceed £800 or such other amount as may be prescribed.
- (2) In subsection (1) “prescribed” means prescribed by order of the Secretary of State.
- (3) An order—
  - (a) may make different provision with respect to different cases or descriptions of case, 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 the House of Commons.

**498 Repairs grants: determination of amount.**

- (1) The amount of a repairs grant—
  - (a) so far as the grant is made in pursuance of section 494(1) (mandatory grants for works required by repairs notice), is the appropriate percentage of the eligible expense, and
  - (b) otherwise, is such as may be fixed by the local housing authority when they approve the application for the grant but shall not exceed the appropriate percentage of the eligible expense.
- (2) The authority shall notify the applicant of the amount of the grant together with the notification under section 496(1) (notification of estimated expense of works).
- (3) Where the authority redetermine the amount of the estimated expense under section 496(2) (new estimate where works cannot be carried out in accordance with original estimate), they shall make such other adjustments relating to the amount of the grant as appear to them to be appropriate; but the amount of the grant shall not be increased beyond the amount which could have been notified when the application was approved if the estimate contained in the application had been of the same amount as the further estimate.
- (4) Where the authority redetermine the amount of the estimated expense under section 496(3) (redetermination where additional works prove necessary), the eligible expense shall be re-calculated under section 497, and if on the re-calculation the amount is greater than when the application was approved the amount of the grant shall be increased, and the applicant notified, accordingly.

*Grant conditions***499 Conditions as to future occupation: introductory.**

- (1) Where an application for a grant (other than a special grant) has been approved by a local housing authority, the provisions of—
  - section 500 (condition as to owner-occupation),
  - section 501 (condition as to availability for letting), and
  - section 502 (conditions as to provision of information about occupation),apply during the initial period as to the occupation of the dwelling or, as the case may be, each of the dwellings to which the grant relates.
- (2) The “initial period” means the period of five years beginning with the date certified by the authority as the date on which the dwelling first becomes fit for occupation after the completion of the relevant works to the satisfaction of the authority.
- (3) That date is referred to in this Part as “the certified date”.

**500 Condition as to owner-occupation.**

- (1) This section applies where the application for the grant was accompanied by a certificate of owner-occupation.
- (2) It is a condition of the grant that—

- (a) throughout the first year of the initial period the dwelling will, as a residence, be occupied exclusively by, or be available for the exclusive occupation of, a qualifying person and the members of his household (if any), and
  - (b) if at any time after that first year (but during the initial period) the dwelling is not occupied exclusively as his only or main residence by a qualifying person and members of his household (if any), it will be let or available for letting by a qualifying person as a residence, and not for a holiday, to persons other than members of that person's family.
- (3) The following persons are “qualifying persons” for the purposes of this section—
- (a) the applicant and any person deriving title to the dwelling through or under him;
  - (b) a member of the applicant's family or a grandparent or grandchild of the applicant or his spouse;
  - (c) at a time when personal representatives or trustees are the qualifying persons by virtue of paragraph (a), a person who under the will or intestacy or, as the case may be, under the terms of the trusts concerned is beneficially entitled to an interest in the dwelling or the proceeds of sale of the dwelling;
  - (d) a person related to one who qualifies under paragraph (c) by being a member of his family or a grandparent or grandchild of his or of his spouse.
- (4) In determining whether there is a breach of the condition specified in subsection(2), a period of not more than twelve months during which the condition was not fulfilled shall be disregarded if—
- (a) the period began on the death of a qualifying person who immediately before his death was occupying the dwelling as his residence, and
  - (b) throughout the period an interest in the dwelling (or in the proceeds of sale of the dwelling), being either the interest which belonged to the deceased or an interest which arose or fell into possession on his death, is vested in his personal representatives (acting in that capacity), or in trustees as such, or by virtue of section 9 of the Administration of Estates Act 1925 (vesting of estate of intestate between death and grant of administration) in the Probate Judge within the meaning of that Act.

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

- (1) This section applies where the application for the grant was accompanied by a certificate of availability for 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, by a qualifying person to persons other than members of the family of that qualifying person or of any other person who is for the time being a qualifying person in relation to the dwelling, 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 Rent (Agriculture) Act 1976).
- (3) The following persons are “qualifying persons” for the purposes of this section—

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- (a) the applicant and any person who derives title to the dwelling through or under him otherwise than by a conveyance for value;
  - (b) a member of the applicant's family or a grandparent or grandchild of the applicant or his spouse;
  - (c) at a time when personal representatives or trustees are the qualifying persons by virtue of paragraph (a), a person who under the will or intestacy or, as the case may require, under the terms of the trusts concerned is beneficially entitled to an interest in the dwelling or the proceedings of sale of the dwelling;
  - (d) a person related to one who qualifies under paragraph (c) by being a member of his family or a grandparent or grandchild of his or of his spouse.
- (4) Where the application was accompanied by a certificate under section 464(2) (tenants' applications: certificate to be given by owner or landlord), subsection (3) has effect with the substitution for the references to the applicant of references to the person who gave the certificate.

**502 Conditions as to provision of information about occupation.**

It is a condition of the grant—

- (a) that if, at any time within the initial period, the authority by whom the grant was paid serve notice on the owner of the dwelling requiring him to do so, he shall, within the period of 21 days beginning with the date on which the notice is served, furnish to the authority a certificate giving such information as the authority may reasonably require with respect to the occupation of the dwelling, 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 furnish the certificate to the authority.

**503 Imposition of further conditions by local housing authority.**

- (1) Where an application for an improvement grant, intermediate grant or repairs grant is approved by a local housing authority, then, subject to subsection (2), the authority—
- (a) may impose with respect to the dwelling or, as the case may be, each of the dwellings to which the grant relates the further conditions specified in section 504 (further conditions as to letting of dwellings), and
  - (b) shall do so, subject to subsection (3), in the case of a dwelling situated in an area which on the date on which the application is approved is a housing action area or general improvement area;

but the authority may impose no other 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.

- (2) The further conditions specified in section 504 may not be imposed to the extent that the grant relates to—
- (a) a dwelling in which a registered housing association or co-operative housing association has an estate or interest on the date on which the application is approved, or
  - (b) a dwelling in respect of which a certificate of owner-occupation has been given and which has not been let in whole or in part for residential purposes at any time during the period of twelve months immediately preceding the date

on which the application is approved (disregarding for this purpose any letting to the applicant, to a member of his family or to a grandparent or grandchild of the applicant or his spouse), or

- (c) a dwelling which is occupied by or available for occupation by a member of the agricultural population in pursuance of a contract of service and otherwise than as a tenant, or
- (d) a dwelling which is occupied by a person who is a protected occupier or statutory tenant under the Rent (Agriculture) Act 1976.

or where the application is a tenant's application and is not accompanied by a certificate of availability for letting.

- (3) In the case of a dwelling within subsection (1)(b) in respect of which a certificate of owner-occupation has been given, the local housing authority need not impose the further conditions specified in section 504 if it appears to them that in the special circumstances of the case it would be reasonable to dispense with them.

#### **504 Further conditions as to letting of dwelling.**

- (1) The conditions referred to in section 503(1) (power of local housing authority to impose further conditions) are—

- (a) that the dwelling will be let or available for letting on a regulated tenancy or a restricted contract;
- (b) that the owner of the dwelling will, if the authority serve notice requiring him to do so, give the authority, within the period of 21 days beginning with the date on which the notice is served, a certificate that the condition set out in paragraph (a) is being fulfilled;
- (c) that any tenant of the dwelling will, if required to do so by the owner, give him such information as he may reasonably require for the purpose of enabling him to comply with the condition set out in paragraph (b);
- (d) that, if on the certified date there is no registered rent for the dwelling and no application or reference is pending, an application or reference will be made before the expiry of the period of 14 days beginning with the first day, not being earlier than the certified date, on which the dwelling is or becomes subject to a regulated tenancy or let on a restricted contract;
- (e) that any such application or reference, either pending or made as mentioned in paragraph (d), will be diligently proceeded with and not withdrawn; and
- (f) that no premium (within the meaning of Part IX of the Rent Act 1977) will be required as a condition of the grant, renewal or continuance, on or after the certified date, of a lease or agreement for a lease of, or restricted contract relating to, the dwelling.

- (2) In subsection (1)

- (a) “regulated tenancy” has the same meaning as in the Rent Act 1977,
- (b) “registered rent”, in relation to a dwelling subject to, or available for letting on, a regulated tenancy, means a rent registered under Part IV of that Act, and in relation to a dwelling let or available for letting on a restricted contract, means a rent registered in the register kept under section 79 of that Act, and
- (c) “application” and “reference”, in relation to the registration of a rent, mean, respectively, an application to the rent officer and a reference of the restricted contract to the rent tribunal.

**505 Duration and enforceability of grant conditions.**

- (1) A grant condition is in force—
  - (a) in the case of a condition imposed under section 503 (further conditions) with respect to a dwelling which on the date on which the application is approved is in a housing action area, for the period of seven years beginning with the certified date, and
  - (b) in any other case, for the period of five years beginning with that date; but subject to the provisions of section 506 and 507 (repayment of grant).
- (2) So long as a grant condition remains in force—
  - (a) it is binding on any person, other than a housing authority or registered housing association, who is for the time being the owner of the dwelling to which the grant relates, 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 lease, agreement for a lease or statutory tenancy of, or of property including, the dwelling.
- (3) A grant condition is a local land charge.

**506 Repayment of grant for breach of condition.**

- (1) In the event of a breach of a grant condition, the local housing authority may demand that the owner for the time being of the dwelling repay the grant forthwith.
- (2) The amount payable is—
  - (a) where the grant related to a single dwelling, the amount of the grant, or
  - (b) where the grant related to two or more dwellings, such part of the grant as appears to the authority to be referable to the dwelling to which the breach relates,together with compound interest on that amount or part as from the certified date, calculated at such reasonable rate as the local housing authority may determine and with yearly rests.
- (3) The authority may determine not to make such a demand or may demand a lesser amount.
- (4) On satisfaction of the liability arising from a demand under this section, all conditions of the grant cease to be in force with respect to the dwelling in question.

**507 Voluntary repayment of grant.**

- (1) If at any time while a condition of a grant remains in force—
  - (a) the owner of the dwelling to which the condition relates pays to the local housing authority by whom the grant was made the amount specified in section 506(2) (amount repayable for breach of condition), or
  - (b) a mortgagee of the interest of the owner in that dwelling, being a mortgagee entitled to exercise a power of sale, makes such a payment,all conditions of the grant cease to be in force with respect to that dwelling.
- (2) An amount paid under subsection (1) by a mortgagee shall be treated as part of the sums secured by the mortgage and may be discharged accordingly.

- (3) The purposes authorised for the application of capital money by—  
 section 73 of the Settled Land Act 1925,  
 that section as applied by section 28 of the Law of Property Act 1925 in relation  
 to trusts for sale, and  
 section 26 of the Universities & College Estates Act 1925,  
 include the making of payments under subsection (1).

*Main grants: supplementary provisions*

**508 Standard amenities and maximum eligible amounts.**

- (1) The standard amenities for the purposes of this Part are those described in column 1 of the following Table (subject to the Notes below); and the maximum eligible amounts for each description of amenity are those shown in column 2 of the Table.

TABLE

<i>Description of amenity</i>	<i>Maximum eligible amount</i>	
	<i>Premises in Greater London</i>	<i>Premises elsewhere</i>
	<i>£</i>	<i>£</i>
A fixed bath or shower (see Notes 1 and 2)	450	340

NOTES:

1. A fixed bath or shower shall be in a bathroom, unless Note 2 applies.
2. If it is not reasonably practicable for the fixed bath or shower to be in a bathroom but it is reasonably practicable for it to be provided with a hot and cold water supply, it need not be in a bathroom but may be in any part of the dwelling which is not a bedroom.
3. A water closet shall, if reasonably practicable, be in, and accessible from within, the dwelling or, where the dwelling is part of a larger building, in such a position in that building as to be readily accessible from the dwelling.
4. Notes 2 and 3 do not apply for the purposes of special grants.

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<i>Description of amenity</i>	<i>Maximum eligible amount</i>	
	<i>Premises in Greater London</i>	<i>Premises elsewhere</i>
	<i>£</i>	<i>£</i>
A hot and cold water supply at a fixed bath or shower (see Notes 1 and 2)	570	430
A wash-hand basin	175	130
A hot and cold water supply at a wash-hand basin	300	230
A sink	450	340
A hot and cold water supply at a sink	380	290
A water closet (see Note 3)	680	515

NOTES:

1. A fixed bath or shower shall be in a bathroom, unless Note 2 applies.
2. If it is not reasonably practicable for the fixed bath or shower to be in a bathroom but it is reasonably practicable for it to be provided with a hot and cold water supply, it need not be in a bathroom but may be in any part of the dwelling which is not a bedroom.
3. A water closet shall, if reasonably practicable, be in, and accessible from within, the dwelling or, where the dwelling is part of a larger building, in such a position in that building as to be readily accessible from the dwelling.
4. Notes 2 and 3 do not apply for the purposes of special grants.

(2) The Secretary of State may by order vary the provisions of the above Table and Notes.

(3) An order—

- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas,



- (b) may contain such transitional or other supplementary provisions as appear to the Secretary of State to be expedient, and
- (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

**509 Meaning of “the appropriate percentage”.**

- (1) The “appropriate percentage” for the purpose of determining the amount or maximum amount of a grant shall be prescribed by order of the Secretary of State made with the consent of the Treasury.
- (2) An order—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument and shall not be made unless a draft of it has been laid before and approved by resolution of the House of Commons.
- (3) An order has effect with respect to applications for grants approved after such date as may be specified in the order, and the specified date shall not be earlier than the date of the laying of the draft.

**510 Statement of reasons for refusing application or giving less than maximum grant.**

- (1) If the local housing authority—
  - (a) do not approve an application for a grant, or
  - (b) where the amount of the grant is discretionary, fix the amount at less than the appropriate percentage of the eligible expense.they shall give the applicant a statement in writing of their reasons for doing so.

**511 Payment of grants: general.**

- (1) Where the local housing authority have approved an application for a grant, they shall pay the grant, subject to section 512 (conditions as to completion of works).
- (2) The grant may be paid—
  - (a) after the completion of the works towards the cost of which it is payable, or
  - (b) in part by instalments as the works progress and the balance after completion of the works.
- (3) Where a grant is paid in instalments, the aggregate of the instalments paid before the completion of the works shall not at any time exceed—
  - (a) in the case of an intermediate grant, the appropriate percentage of the total cost of the works so far executed;
  - (b) in the case of an improvement grant, special grant or repairs grant, an amount bearing to that total cost the same proportion as the amount of the grant fixed by the authority bears to the eligible expense.

**512 Payment of grants: conditions as to completion of works.**

- (1) The payment of a grant, or part of a grant, is conditional upon the works or the corresponding part being executed to the satisfaction of the local housing authority.

- (2) In approving an application for a grant the authority may require as a condition of paying the grant that the relevant works are carried out within such time, not being less than twelve months, as the authority may specify or such further time as they may allow.
- (3) In particular, where the authority are satisfied that the relevant works cannot or could not have been carried out without the carrying out of additional works, they may allow further time as the time within which the relevant works and the additional works are to be carried out.
- (4) If an instalment of a grant is paid before the completion of the works and the works are not completed within—
  - (a) the time specified by the authority under subsection (2) or such further time as they may allow, or
  - (b) if no time was so specified, twelve months from the date on which the instalment is paid or such further time as the authority may allow,the authority may demand the repayment forthwith by the applicant or his personal representatives of that instalment, and any further sums paid by the authority, together with interest at such reasonable rate as the authority may determine from the date of payment until repayment.

### **513 Special cases: parsonages, application by charities, &c.**

- (1) This section applies to—
  - (a) an application for a grant in respect of glebe land or the residence house of an ecclesiastical benefice made, during a period when the benefice is vacant, by a sequestrator of the profits of the 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.
- (2) The following provisions do not apply to an application to which this section applies—section 463(1) (preliminary condition: interest of applicant in the property), section 464 (preliminary condition: certificate as to future occupation), and sections 499 to 504 (grant conditions as to future occupation, &c.).

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

- (1) The 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)
- (2) The “requisite interest” means an interest in every parcel of land on which the works are to be carried out which is either—
  - (a) an estate in fee simple absolute in possession, or
  - (b) a term of years absolute of which not less than five years remains unexpired.
- (3) The works with respect to which an agreement may be made under this section include, if the works are to be carried out in a general improvement area—

- (a) any works the carrying out of which will or might be assisted under section 255(1)(a) (improvement of amenities or dwellings), or
- (b) any works of external repair (including decorative repair) or replacement.

### **515 Grants restricted to applicant and his personal representatives.**

- (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) If, before the certified date, the applicant ceases to have an owner's interest or ceases to be a tenant of the dwelling—
  - (a) no grant shall be paid or, as the case may be, no further instalments shall be paid, and
  - (b) the local housing 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) In subsection (2) “owner's interest” and “tenant” have the same meaning as in section 463(1) (preliminary condition: interest of applicant in the property).

### **516 Contributions by Secretary of State.**

- (1) The Secretary of State may make contributions towards the expense incurred by a local housing authority in making a grant.
- (2) The contributions shall be annual sums—
  - (a) payable in respect of a period of 20 years beginning with the financial year in which the works towards the cost of which the grant was made were completed, and
  - (b) equal to a percentage of the annual loan charges referable to the amount of the grant.
- (3) Subject to any order under section 517 (power to vary percentages), the percentage is—
  - (a) 90 per cent. in a case where the premises to which the application relates are in a general improvement area or housing action area, and
  - (b) 75 per cent. in any other case;and, subject to subsection (4), the applicable percentage shall be determined by reference to the state of affairs at the date when the application is approved.
- (4) Where on that date the premises are in an area declared to be a housing action area and the Secretary of State subsequently notifies the local housing authority—
  - (a) that the area is no longer to be such an area, or
  - (b) that land on which the premises are situated is to be excluded from the area,he may (without prejudice to his discretion under subsection (1) not to make a contribution) make a contribution on the basis that the applicable percentage is 75 per cent.
- (5) The annual loan charges referable to the amount of a grant are the annual sums which, in the opinion of the Secretary of State, would fall to be provided by a housing

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authority for the payment of interest on, and the repayment of, a loan of that amount repayable over a period of 20 years.

- (6) Contributions under this section are payable subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

**517 Power to vary percentages mentioned in s. 516.**

- (1) The Secretary of State may by order made with the consent of the Treasury vary either or both of the percentages mentioned in section 516 (contributions by Secretary of State to expense of making grants).
- (2) An order—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument and shall not be made unless a draft of it has been laid before and approved by resolution of the House of Commons.
- (3) An order has effect with respect to applications for grants approved after such date as may be specified in the order, and the specified date shall not be earlier than the date of the laying of the draft.

**518 Meaning of “dwelling for a disabled occupant” and related expressions.**

- (1) In this Part “dwelling for disabled occupant” means a dwelling which—
- (a) is a disabled occupant’s only or main residence when an application for a grant in respect of it is made, or
  - (b) is likely in the opinion of the local housing authority to become a disabled occupant’s only or main residence within a reasonable period after the completion of the relevant works,
- and “disabled occupant” means a disabled person for whose benefit it is proposed to carry out any of the relevant works.
- (2) In subsection (1) “disabled person” means—
- (a) a person who is registered in pursuance of arrangements made under section 29(1) of the National Assistance Act 1948 (handicapped persons' welfare), or
  - (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;
- and for this purpose “welfare authority” means the council which is the local authority for the purposes of the Local Authority Social Services Act 1970 for the area in which the dwelling is situated.
- (3) In this part “improvement”, in relation to a dwelling for a disabled occupant, includes the doing of works required for making it suitable for his accommodation, welfare or employment.

**519 Meaning of “reasonable repair”.**

- (1) In determining what is “reasonable repair”, in relation to a dwelling or house, a local housing authority—

- (a) shall have regard to the age and character of the dwelling or house and the locality in which it is situated
- (b) for the purposes of an intermediate grant, shall also have regard to the period during which the dwelling is likely to be available for use as a dwelling, and
- (c) shall disregard the state of internal decorative repair.

**520 Members of a person's family.**

- (1) A person is a member of another's family within the meaning of this Part if—
  - (a) he is the spouse of that person, or
  - (b) he is that person's parent or child.
- (2) For the purposes of subsection (1)(b)—
  - (a) a relationship by marriage shall be treated as a relationship by blood,
  - (b) the stepchild of a person shall be treated as his child, and
  - (c) an illegitimate child shall be treated as the legitimate child of his mother and reputed father.

*Grants for thermal insulation***521 Schemes for grants for thermal insulation.**

- (1) Local housing authorities shall make grants, in accordance with such schemes as may be prepared and published by the Secretary of State and laid by him before Parliament, towards the cost of works undertaken to improve the thermal insulation of dwellings in their district.
- (2) Schemes under this section shall specify—
  - (a) the descriptions of dwelling and the insulation works qualifying for grants, and
  - (b) the persons from whom applications may be entertained in respect of different descriptions of dwelling,
- (3) The grant shall be such percentage of the cost of the works qualifying for grant as may be prescribed, or such money sum as may be prescribed, whichever is the less.
- (4) A scheme may provide for grants to be made only to those applying on grounds of special need or to be made in those cases on a prescribed higher scale; and for this purpose "special need" shall be determined by reference to such matters personal to the applicant (such as age, disability, bad health and inability without undue hardship to finance the cost of the works) as may be specified in the scheme.
- (5) In this section "prescribed" means prescribed by order of the Secretary of State made with the approval of the Treasury.
- (6) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

**522 Finance and administration of schemes under s. 521.**

- (1) Finance for the making of grants under section 521 shall be provided to local housing authorities from time to time by the Secretary of State.

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- (2) A local housing authority is not required, nor has power, to make grants under section 521 in any year beyond those for which the Secretary of State has notified them that finance is committed for that year in respect of the authority's district.
- (3) In the administration of grants under section 521 local housing authorities shall comply with any directions given to them by the Secretary of State after consultation with their representative organisations.
- (4) The Secretary of State may, in particular, give directions as to—
  - (a) the way in which applications for grants are to be dealt with, and the priorities to be observed between applicants and different categories of applicant, and
  - (b) the means of authenticating applications, so that grants are only given in proper cases, and of ensuring that the works are carried out to any standard specified in the applicable scheme.
- (5) The Secretary of State shall, with the approval of the Treasury, pay such sums as he thinks reasonable in respect of the administrative expenses incurred by local housing authorities in operating schemes under section 521.

*Miscellaneous*

**523 Assistance for provision of separate service pipe for water supply.**

- (1) The local housing authority may, if they think fit, give assistance in respect of the provision of a separate service pipe for a house which has a piped supply of water from a water main but no separate service pipe.
- (2) The assistance shall be by way of a grant in respect of all or part of the expenses incurred in the provision of the separate service pipe.
- (3) The reference in subsection (2) to the expenses incurred in the provision of the separate service pipe includes, in a case where all or part of the works are carried out by statutory water undertakers (whether in exercise of default powers or otherwise), sums payable to the undertakers by the owner of the house, or any other person, for carrying out the works.

**524 Contributions under superseded enactments.**

Schedule 19 has effect with respect to contributions payable under superseded enactments.

*General supplementary provisions*

**525 Minor definitions.**

In this Part—

“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;

“charity trustees” has the same meaning as in the Charities Act 1960;

“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;

“House in multiple occupation” means a house which is occupied by persons who do not form a single household, exclusive of any part of the house which is occupied as a separate dwelling by persons who form a single household;

“improvement” includes alteration and enlargement;

“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.

## 526 Index of defined expressions: Part XV.

The following Table shows provisions defining or otherwise explaining expressions used in this part (other than provisions defining or explaining an expression in the same section):—

agricultural population	section 525
applicant	section 515(1)
appropriate percentage	section 509
certificate of availability for letting	section 464(5)
certificate of owner-occupation	section 464(3), (4)
certified date	section 499(3)
charity	section 622
charity trustees	section 525
co-operative housing association	section 5(2)
district (of a local housing authority)	section 2(1)
dwelling	section 525
dwelling for a disabled occupant	section 518
eligible expense	sections 472, 481, 489 and 497
fit for human habitation	section 604
general improvement area	section 253
grant (without more)	section 460(1)
house in multiple occupation	section 525
housing action area	section 239

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housing association	section 5(1)
housing authority	section 4(a)
improvement	section 518(3) and 525
improvement grant	sections 460 and 467
initial period	section 499(2)
intermediate grant	sections 460 and 474
lessee and let	section 621
local housing authority	section 1, 2(2)
member of family	section 520
owner	section 525
protected occupancy	section 622
protected tenancy	section 622
reasonable repair	section 519
registered and unregistered (in relation to a housing association)	section 5(4)
relevant works	section 461(2)
repairs grant	sections 460 and 491
restricted contract	section 622
secure tenancy	section 79
special grant	section 460 and 483
standard amenity	section 508(1)
statutory tenancy	section 622
tenancy and tenant	section 621

## PART XVI

### ASSISTANCE FOR OWNERS OF DEFECTIVE HOUSING

#### *Eligibility for assistance*

#### **527 Eligibility for assistance.**

- A person is eligible for assistance under this Part in respect of a dwelling if—
- (a) he is an individual who is not a trustee, a trustee for beneficiaries who are all individuals or a personal representative,
  - (b) the dwelling is a defective dwelling within the meaning of this Part by virtue of a designation under section 528 (designation by Secretary of State) or section 559 (designation under local scheme),
  - (c) he holds a relevant interest in the dwelling, as defined in section 530, and



- (d) the conditions specified in section 531 (conditions of eligibility: disposal by public sector authority, &c.) are satisfied; but subject to section 533 (exceptions to eligibility).

## **528 Designation of defective dwellings by Secretary of State.**

- (1) The Secretary of State may designate as a class buildings each of which consists of or includes one or more dwellings if it appears to him that—
  - (a) buildings in the proposed class are defective by reason of their design or construction, and
  - (b) by virtue of the circumstances mentioned in paragraph (a) having become generally known, the value of some or all of the dwellings concerned has been substantially reduced.
- (2) A dwelling which is, or is included in, a building in a class so designated is referred to in this Part as a “defective dwelling”; and in this Part, in relation to such a dwelling—
  - (a) “the qualifying defect” means what, in the opinion of the Secretary of State, is wrong with the buildings in that class, and
  - (b) “the cut-off date” means the date by which, in the opinion of the Secretary of State, the circumstances mentioned in subsection (1)(a) became generally known.
- (3) A designation shall describe the qualifying defect and specify—
  - (a) the cut-off date,
  - (b) the date (being a date falling on or after the cut-off date) on which the designation is to come into operation, and
  - (c) the period within which persons may seek assistance under this Part in respect of the defective dwellings concerned.
- (4) A designation may make different provision in relation to England and Wales; subject to that, a designated class shall not be described by reference to the area in which the buildings concerned are situated.
- (5) Notice of a designation shall be published in the London Gazette.
- (6) Any question arising as to whether a building is or was at any time in a class designated under this section shall be determined by the Secretary of State.

## **529 Variation or revocation of designation.**

- (1) The Secretary of State may—
  - (a) vary a designation under section 528, but not so as to vary the cut-off date, or
  - (b) revoke such a designation.
- (2) The Secretary of State may by a variation of the designation extend the period referred to in section 528(3)(c) (period within which assistance must be applied for) whether or not it has expired.
- (3) The variation or revocation of a designation does not affect the operation of the provisions of this Part in relation to a dwelling if, before the variation or revocation comes into operation, the dwelling is a defective dwelling by virtue of the designation in question and an application for assistance under this Part has been made.

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- (4) Notice of the variation or revocation of a designation shall be published in the London Gazette.

**530 Meaning of “relevant interest”.**

- (1) In this Part “relevant interest”, in relation to a dwelling, means the freehold or a long tenancy, not being in either case subject to a long tenancy.
- (2) A tenancy is a long tenancy for this purpose, subject to subsection (3), if it is—
- (a) a tenancy granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise,
  - (b) a tenancy granted in pursuance of Part V (the right to buy), or
  - (c) a tenancy for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, unless it is a tenancy by sub-demise from one which is not a long tenancy.
- (3) A tenancy is not a long tenancy for this purpose if it is—
- (a) an interest created by way of security and liable to termination by the exercise of a right of redemption or otherwise, or
  - (b) a secure tenancy.
- (4) References in this part to an interest in a dwelling are to an interest in land which is or includes the dwelling.

**531 Conditions of eligibility: disposal by public sector authority, &c.**

- (1) The conditions referred to in section 527(d) (eligibility for assistance) are that there has been a disposal by a public sector authority of a relevant interest in the dwelling and that either of the following sets of conditions is satisfied.
- (2) The first set of conditions is that—
- (a) the disposal by a public sector authority was made before the cut-off date, and
  - (b) there has been no disposal for value by any person of a relevant interest in the dwelling on or after that date.
- (3) The second set of conditions is that—
- (a) a person to whom section 527 applies acquired a relevant interest in the dwelling on a disposal for value occurring within the period of twelve months beginning with the cut-off date,
  - (b) he was unaware on the date of the disposal of the association of the dwelling with the qualifying defect,
  - (c) the value by reference to which the price for the disposal was calculated did not take any, or any adequate, account of the qualifying defect, and
  - (d) if the cut-off date had fallen immediately after the date of the disposal, the first set of conditions would have been satisfied.
- (4) For the purposes of this section where a public sector authority hold an interest in a dwelling a disposal of the interest by or under an enactment shall be treated as a disposal by the authority.

**532 Construction of references to disposal, &c.**

- (1) References in this Part to a disposal include a part disposal; but for the purposes of this Part a disposal of an interest in a dwelling is a disposal of a relevant interest in the dwelling only if on the disposal the person to whom it is made acquires a relevant interest in the dwelling.
- (2) Where an interest in land is disposed of under a contract, the time at which the disposal is made is, for the purposes of this Part—
  - (a) if the contract is unconditional, the time at which the contract is made, and
  - (b) if the contract is conditional (and in particular if it is conditional on the exercise of an option), the time when the condition is satisfied;and not, if different, the time at which the interest is conveyed.
- (3) Reference in this Part to a disposal of an interest for value are to a disposal for money or money's worth, whether or not representing full value for the interest disposed of.
- (4) In relation to a person holding an interest in a dwelling formed by the conversion of another dwelling, references in this Part to a previous disposal of an interest in the dwelling include a previous disposal on which an interest in land which included that part of the original dwelling in which his interest subsists was acquired.

**533 Exceptions to eligibility.**

- (1) A person who holds a relevant interest in a defective dwelling is not eligible for assistance in respect of the dwelling at any time when that interest is subject to the rights of a person who is a protected occupier or statutory tenant within the meaning of the Rent (Agriculture) Act 1976.
- (2) A person is not eligible for assistance in respect of a defective dwelling if the local housing authority are of the opinion—
  - (a) that work to the building which consists of or includes the dwelling has been carried out in order to deal with the qualifying defect, and
  - (b) that on the completion of the work, no further work relating to the dwelling was required to be done to the building in order to deal satisfactorily with the qualifying defect.

*Determination of entitlement*

**534 Application for assistance.**

A person seeking assistance under this Part in respect of a defective dwelling shall make a written application to the local housing authority within a period specified in the relevant designation.

**535 Application not to be entertained where grant application pending or approved.**

- (1) The local housing authority shall not entertain an application for assistance under this Part if—
  - (a) an application has been made in respect of the defective dwelling (whether before or after the relevant designation came into operation) for an

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improvement grant, intermediate grant, special grant or repairs grant under Part XV, and

- (b) the relevant works in relation to that grant include the whole or part of the work required to reinstate the dwelling,

unless the grant application has been refused or has been withdrawn under subsection (2) or the relevant works have been completed.

- (2) Where a person has applied for such a grant in respect of a dwelling and—
  - (a) the dwelling is a defective dwelling, and
  - (b) the relevant works include the whole or part of the work required to reinstate it,he may withdraw his application, whether or not it has been approved, if the relevant works have not been begun.
- (3) In this section “relevant works”, in relation to a grant, has the same meaning as in Part XV.

### **536 Determination of eligibility.**

- (1) A local housing authority receiving an application for assistance under this Part shall as soon as reasonably practicable give notice in writing to the applicant stating whether in their opinion he is eligible for assistance in respect of the defective dwelling.
- (2) If they are of opinion that he is not so eligible, the notice shall state the reasons for their view.
- (3) If they are of opinion that he is so eligible, the notice shall inform him of his right to make such a claim as is mentioned in section 537(2) (claim that assistance by way of reinstatement grant is appropriate in his case).

### **537 Determination of form of assistance to which applicant is entitled.**

- (1) A local housing authority receiving an application for assistance under this Part shall, if the applicant is eligible for assistance, determine whether he is entitled to assistance by way of reinstatement grant or by way of repurchase.
- (2) If the authority are satisfied, on a claim by the applicant to that effect, that it would be unreasonable to expect him to secure or await the carrying out of the work required to reinstate the defective dwelling, the applicant is entitled to assistance by way of repurchase.
- (3) Subject to subsection (2), the applicant is entitled to assistance by way of reinstatement grant if the authority are satisfied that the conditions for such assistance set out in section 538 are met, and otherwise to assistance by way of repurchase.

### **538 Conditions for assistance by way of reinstatement grant.**

- (1) The conditions for assistance by way of reinstatement grant are, subject to any order under subsection (2)—
  - (a) that the dwelling is a house (as defined in section 575);
  - (b) that if the work required to reinstate the dwelling (together with any other work which the local housing authority are satisfied the applicant proposes to carry out) were carried out—

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- (i) the dwelling would be likely to provide satisfactory housing accommodation for a period of at least 30 years, and
    - (ii) an individual acquiring the freehold of the dwelling with vacant possession would be likely to be able to arrange a mortgage on satisfactory terms with a lending institution;
  - (c) that giving assistance by way of reinstatement grant is justified having regard, on the one hand, to the amount of reinstatement grant that would be payable in respect of the dwelling and, on the other hand, to the likely value of the freehold of the dwelling with vacant possession after the work required to reinstate it has been carried out; and
  - (d) that the amount of reinstatement grant would not be likely to exceed the aggregate of the price payable on the acquisition of the applicant's interest in the dwelling in pursuance of this Part and the amount to be reimbursed under section 552 (reimbursement of expenses incidental to repurchase).
- (2) The Secretary of State may by order amend the conditions set out in subsection (1) so as to modify or omit any of the conditions or to add or substitute for any of the conditions other conditions.
- (3) An order—
- (a) may make different provision for different classes of case,
  - (b) shall be made by statutory instrument, and
  - (c) shall not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (4) An order does not affect an application for assistance made before the order comes into force.

**539 Meaning of “work required for reinstatement” and “associated arrangement”.**

- (1) For the purposes of this Part the work required to reinstate a defective dwelling is the work relating to the dwelling that is required to be done to the building that consists of or includes the dwelling in order to deal satisfactorily with the qualifying defect, together with any further work—
- (a) required to be done, in order to deal satisfactorily with the qualifying defect, to any garage or outhouse designed or constructed as that building is designed or constructed, being a garage or outhouse in which the interest of the person eligible for assistance subsists and which is occupied with and used for the purposes of the dwelling or any part of it, or
  - (b) reasonably required in connection with other work falling within this subsection.
- (2) In this Part “associated arrangement” means an arrangement which is entered into in connection with the execution of the work required to reinstate a defective dwelling and is likely to contribute towards the dwelling being regarded as an acceptable security by a lending institution.

**540 Notice of determination.**

- (1) Where an applicant is eligible for assistance, the authority to whom the application was made shall as soon as reasonably practicable give him notice in writing (a “notice of determination”) stating the form of assistance to which he is entitled.

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- (2) If, on such a claim by the applicant as is mentioned in section 537(2) (claim that assistance by way of reinstatement grant is inappropriate in his case), the authority are not satisfied that it would be unreasonable to expect him to secure or await the carrying out of the work required to reinstate the defective dwelling, the notice shall state the reasons for their view.
- (3) A notice stating that the applicant is entitled to assistance by way of reinstatement grant shall also state—
- (a) the grounds for the authority’s determination;
  - (b) the work which, in their opinion, is required to reinstate the defective dwelling;
  - (c) the amount of expenditure which, in their opinion, may properly be incurred in executing the work;
  - (d) the amount of expenditure which, in their opinion, may properly be incurred in entering into an associated arrangement;
  - (e) the condition required by section 542 (execution of work to satisfaction of authority within specified period), including the period within which the work is to be carried out; and
  - (f) their estimate of the amount of grant payable in respect of the dwelling in pursuance of this Part.
- (4) A notice stating that the applicant is entitled to assistance by way of repurchase shall also state the grounds for the authority’s determination and the effect of—
- (a) paragraphs 1 to 3 of Schedule 20 (request for notice of proposed terms of repurchase), and
  - (b) sections 554, 556 and 557(1) (provisions for grant of tenancy to former owner-occupier of repurchased dwelling).
- (5) References in the following provisions of this Part to a person entitled to assistance by way of reinstatement grant or, as the case may be, by way of repurchase are to a person who is eligible for assistance in respect of the dwelling and on whom a notice of determination has been served stating that he is entitled to that form of assistance.

*Assistance by way of reinstatement grant*

**541 Reinstatement grant.**

- (1) Where a person is entitled to assistance by way of reinstatement grant, the local housing authority shall pay reinstatement grant to him in respect of—
- (a) the qualifying work, and
  - (b) any associated arrangement,
- subject to and in accordance with the following provisions of this Part.
- (2) The “qualifying work” means the work stated in the notice of determination, or in a notice under section 544 (notice of change of work required), to be the work which in the opinion of the local housing authority is required to reinstate the dwelling.

**542 Conditions of payment of reinstatement grant.**

- (1) It is a condition of payment of reinstatement grant that the qualifying work is carried out—

- (a) to the satisfaction of the local housing authority, and
  - (b) within the period specified in the notice of determination. or that period as extended.
- (2) The period so specified shall be such reasonable period (of at least twelve months), beginning with service of the notice, as the authority may determine.
- (3) The authority shall, if there are reasonable grounds for doing so, by notice in writing served on the person entitled to assistance, extend or further extend the period for carrying out the qualifying work (whether or not the period has expired).
- (4) Payment of reinstatement grant shall not be subject to any other condition, however expressed.

### **543 Amount of reinstatement grant.**

- (1) The amount of reinstatement grant payable is the appropriate percentage of whichever is the least of—
- (a) the amount stated in the notice of determination, or in a notice under section 544 (notice of change in work required or expenditure permitted), to be the amount of expenditure which, in the opinion of the local housing authority, may properly be incurred in executing the qualifying work and entering into any associated arrangement,
  - (b) the expenditure actually incurred in executing the qualifying work and entering into any associated arrangement, and
  - (c) the expenditure which is the maximum amount permitted to be taken into account for the purposes of this section.
- (2) The appropriate percentage is 90 per cent, or, in a case where the authority are satisfied that the person entitled to assistance would suffer financial hardship unless a higher percentage of the expenditure referred to in subsection (1) were paid to him, 100 per cent.
- (3) The Secretary of State may by order vary either or both of the percentages mentioned in subsection (2).
- (4) The maximum amount of expenditure permitted to be taken into account for the purposes of this section is the amount specified as the expenditure limit by order made by the Secretary of State, except in a case or description of case in which the Secretary of State, on the application of a local housing authority, approves a higher amount.
- (5) An order under subsection (4) may make different provision for different areas, different designated classes and different categories of dwelling.
- (6) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

### **544 Changes in work or expenditure.**

Where the local housing authority are satisfied that—

- (a) the work required to reinstate the defective dwelling is more extensive than that stated in the notice of determination or in a previous notice under this section, or

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- (b) the amount of the expenditure which may properly be incurred in executing that work is greater than that so stated, or
- (c) there is an amount of expenditure which may properly be incurred in entering into an associated arrangement but no such amount is stated in the notice of determination or a previous notice under this section, or
- (d) where such an amount is so stated, the amount of expenditure which may be properly so incurred is greater than that amount,

they shall by notice in writing served on the person entitled to assistance state their opinion as to that amount or, as the case may be, that work and that amount; and the amount of reinstatement grant shall be adjusted accordingly.

**545 Payment of reinstatement grant.**

- (1) The local housing authority may pay reinstatement grant in respect of the qualifying work in a single sum on completion of the work or by instalments.
- (2) No instalments shall be paid if the instalment, together with any amount previously paid, would exceed the appropriate percentage of the cost of so much of the qualifying work as has been executed at that time.
- (3) The authority shall pay reinstatement grant in respect of an associated arrangement when payment in respect of the expenditure incurred in entering into the arrangement falls to be made.

**546 Repayment of grant for breach of condition.**

- (1) Where an amount of reinstatement grant has been paid in one or more instalments and the qualifying work is not completed within the period for carrying out the work, the local housing authority may, if they think fit, require the person who was entitled to assistance to repay that amount to them forthwith.
- (2) The amount required to be repaid (or, if it was paid in more than one instalment, the amount of each instalment) shall carry interest, at such reasonable rate as the authority may determine, from the date on which it was paid until repayment.

*Assistance by way of repurchase*

**547 Repurchase.**

The provisions of Schedule 20 have effect with respect to assistance by way of repurchase, as follows—

- Part I—The agreement to repurchase.
- Part II—Price payable and valuation.
- Part III—Supplementary provisions.

**548 Repurchase by authority other than local housing authority.**

- (1) Where the local housing authority give a notice of determination to a person stating that he is entitled to assistance by way of repurchase and they are of opinion that—



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- (a) a relevant interest in the dwelling was disposed of by a public sector authority mentioned in column 1 of the following Table (or a predecessor mentioned there of such an authority),
- (b) there has been no disposal within paragraph (a) since the time of that disposal, and
- (c) any conditions mentioned in column 2 of the Table in relation to the authority are met,

they shall forthwith give that other authority a notice in writing, together with a copy of the notice of determination, stating that the authority may acquire in accordance with this Part, the interest of the person entitled to assistance.

TABLE

<i>Public sector authority</i>	<i>Conditions</i>
1. A registered housing association (other than a co-operative housing association) or a predecessor housing association of that association.	None
2. A development corporation.	No interests have at any time been transferred from the corporation in pursuance of a scheme made or having effect as if made under section 42 of the New Towns Act 1981 (transfer of housing to district council).
3. The Development Board for Rural Wales.	None
Another local housing authority or a predecessor of that authority.	The local housing authority provide housing accommodation in the vicinity of the defective dwelling with which the dwelling may conveniently be managed.
5. Any other public sector authority prescribed by order of the Secretary of State, or a predecessor so prescribed.	Any conditions prescribed in the order.

- (2) The other authority may, within the period of four weeks beginning with the service of the notice on them, give notice in writing to the local housing authority—
  - (a) stating that they wish to acquire the interest, and
  - (b) specifying the address of the principal office of the authority and any other address which may also be used as an address for service;
 and the local housing authority shall forthwith give to the person entitled to assistance a transfer notice, that is, a notice in writing of the contents of the notice received by them and the effect of subsection (3).
- (3) After a transfer notice has been given to the person entitled to assistance, the other authority shall be treated as the appropriate authority for the purposes of anything done or falling to be done under this Part, except that—
  - (a) a request under paragraph 2 of Schedule 20 (request for notice of proposed terms of acquisition) may be made either to the local housing authority or to the other authority, and

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(b) any such request given to the local housing authority (whether before or after the notice) shall be forwarded by them to the other authority;  
and references in this Part to “the purchasing authority” shall be construed accordingly.

(4) An order under this section shall be made by statutory instrument.

#### **549 Interest subject to right of pre-emption &c.**

(1) This section applies where a person (“the owner”) is entitled to assistance by way of repurchase in respect of a defective dwelling and there is a covenant relating to his interest in the dwelling whereby—

- (a) before disposing of the interest he must offer to dispose of it to a public sector authority, or
- (b) in the case of a leasehold interest, he may require a public sector authority who are his landlord to accept a surrender of the lease but is otherwise prohibited from disposing of it,

(2) If the public sector authority are the local housing authority, the covenant shall be disregarded for the purposes of Schedule 20 (repurchase).

(3) If the public sector authority are not the local housing authority, the provisions of this Part as to repurchase do not apply so long as there is such a covenant; but if—

- (a) the owner disposes of his interest to the public sector authority in pursuance of the covenant or lease, and
- (b) the interest acquired by that authority on the disposal subsists only in the land affected, that is to say, the defective dwelling and any garage, outhouse, garden, yard and appurtenances occupied with and used for the purposes of the dwelling or part of it,

the owner is entitled to be paid by the local housing authority the amount (if any) by which 95 per cent. of the defect-free value exceeds the consideration for the disposal.

(4) For the purposes of this section—

- (a) the “consideration for the disposal” means the amount before any reduction required by section 158(3) (reduction corresponding to amount of discount repayable or amount payable for outstanding share under shared ownership lease) or any provision to the like effect, and
- (b) the “defect-free value” means the amount that would have been the consideration for the disposal if none of the defective dwellings to which the designation in question related had been affected by the qualifying defect.

#### **550 Compulsory purchase compensation to be made up to 95 per cent of defect-free value.**

(1) Where a person (“the owner”) has disposed of an interest in a defective dwelling, otherwise than in pursuance of Schedule 20 (repurchase), to an authority possessing compulsory purchase powers and—

- (a) immediately before the time of the disposal he was eligible for assistance under this Part in respect of the dwelling,
- (b) the amount paid as consideration for the disposal did not include any amount attributable to his right to apply for such assistance, and
- (c) on the disposal the authority acquired an interest in any of the affected land, that is to say, the defective dwelling and any garage, outhouse, garden, yard

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and appurtenances occupied with and used for the purposes of the dwelling or part of it,

he is entitled, subject to the following provisions of this section, to be paid by the local housing authority the amount (if any) by which 95 per cent. of the defect-free value exceeds the amount of the compensation for the disposal.

- (2) For the purposes of this section—
- (a) the “amount of compensation for the disposal” means the amount that would have been the proper amount of compensation for the disposal (having regard to any relevant determination of the Lands Tribunal) or, if greater, the amount paid as the consideration for the disposal, and
  - (b) the “defect-free value” means the amount that would have been the proper amount of compensation for the disposal if none of the defective dwellings to which the designation in question related had been affected by the qualifying defect;
- but excluding, in either case any amount payable for disturbance or for any other matter not directly based on the value of land.
- (3) For the purposes of this section, it shall be assumed that the disposal occurred on a compulsory acquisition (in cases where it did not in fact do so).
- (4) Where the compensation for the disposal fell to be assessed by reference to the value of the land as a site cleared of buildings and available for development, it shall be assumed for the purposes of determining the defect-free value that it did not fall to be so assessed.
- (5) The amount payable by the local housing authority under this section shall be reduced by the amount of any payment made in respect of the defective dwelling under Schedule 23 (payments for well-maintained houses).
- (6) In this section “authority possessing compulsory purchase powers” has the same meaning as in the Land Compensation Act 1961.

### **551 Supplementary provisions as to payments under s. 549 or 550.**

- (1) The local housing authority are not required to make a payment to a person under—
- (a) section 549 (making-up of consideration on disposal in pursuance of right of pre-emption, &c.), or
  - (b) section 550 (making-up of compulsory purchase compensation),
- unless he makes a written application to them for payment before the end of the period of two years beginning with the time of the disposal.
- (2) Where the authority—
- (a) refuse an application for payment under section 549 on any grounds, or
  - (b) refuse an application for payment under section 550 on the grounds that the owner was not eligible for assistance in respect of the defective dwelling,
- they shall give the applicant written notice of the reasons for their decision.
- (3) Any question arising—
- (a) under section 549 or 550 as to the defect-free value, or
  - (b) under section 550 as to the amount of compensation for the disposal,

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shall be determined by the district valuer if the owner or the local housing authority so require by notice in writing served on the district valuer.

- (4) A person serving a notice on the district valuer in pursuance of subsection (3) shall serve notice in writing of that fact on the other party.
- (5) Before making a determination in pursuance of subsection (3), the district valuer shall consider any representation by the owner or the authority made to him within four weeks from the service of the notice under that subsection.

### **552 Reimbursement of expenses incidental to repurchase.**

- (1) A person whose interest in a defective dwelling is acquired by the purchasing authority in pursuance of Schedule 20 (repurchase) is entitled to be reimbursed by the purchasing authority the proper amount of—
  - (a) expenses in respect of legal services provided in connection with the authority's acquisition, and
  - (b) other expenses in connection with negotiating the terms of that acquisition, being in each case expenses which are reasonably incurred by him after receipt of a notice under paragraph 3 of that Schedule (authority's notice of proposed terms of acquisition).
- (2) An agreement between a person and the purchasing authority is void in so far as it purports to oblige him to bear any part of the costs or expenses incurred by the authority in connection with the exercise by him of his rights under this Part.

#### *Effect of repurchase on occupier*

### **553 Effect of repurchase on certain existing tenancies.**

- (1) Where an authority mentioned in section 80 (authorities satisfying the landlord condition for secure tenancy) acquire an interest in a defective dwelling in pursuance of Schedule 20 (repurchase) and—
  - (a) the land in which the interest subsists is or includes a dwelling-house occupied as a separate dwelling, and
  - (b) the interest of the person entitled to assistance by way of repurchase is, immediately before the completion of the authority's acquisition, subject to a tenancy of the dwelling-house,

the tenancy shall not, on or after the acquisition, become a secure tenancy unless the conditions specified in subsection (2) are met.
- (2) The conditions are—
  - (a) that the tenancy was a protected tenancy throughout the period beginning with the making of an application for assistance under this Part in respect of the defective dwelling and ending immediately before the authority's acquisition; and
  - (b) no notice was given in respect of the tenancy in accordance with any of Cases 11 to 18 and 20 in Schedule 15 to the Rent Act 1977 (notice that possession might be recovered under that Case) or under section 52(1)(b) of the Housing Act 1980 (notice that tenancy is to be a protected shorthold tenancy).

#### **554 Grant of tenancy to former owner-occupier.**

- (1) Where an authority acquire an interest in a defective dwelling in pursuance of Schedule 20 (repurchase), or in the circumstances described in section 549(3) (exercise of right of pre-emption &c.), and—
  - (a) the land in which the interest subsists is or includes a dwelling-house occupied as a separate dwelling, and
  - (b) an individual is an occupier of the dwelling-house throughout the period beginning with the making of an application for assistance under this Part in respect of the dwelling and ending immediately before the completion of the authority's acquisition, and
  - (c) he is a person entitled to assistance by way of repurchase in respect of the defective dwelling, or the persons so entitled are in relation to the interest concerned his trustees,the authority shall, in accordance with this section, either grant or arrange for him to be granted a tenancy (of that dwelling-house or another: see section 556) on the completion of their acquisition of the interest concerned.
- (2) If the authority are among those mentioned in section 80(1) (public sector authorities capable of granting secure tenancies) their obligation is to grant a secure tenancy.
- (3) In any other case their obligation is to grant or arrange for the grant of either—
  - (a) a secure tenancy, or
  - (b) a protected tenancy other than one under which the landlord might recover possession under one of the cases in Part II of Schedule 15 to the Rent Act 1977 (cases in which the court must order possession).
- (4) Where two or more persons qualify for the grant of a tenancy under this section in respect of the same dwelling-house, the authority shall grant the tenancy, or arrange for it to be granted, to such one or more of them as they may agree among themselves or (if there is no such agreement) to all of them.

#### **555 Grant of tenancy to former statutory tenant.**

- (1) Where an authority mentioned in section 80(1) (public sector authorities capable of granting secure tenancies) acquire an interest in a defective dwelling in pursuance of Schedule 20 (repurchase) and—
  - (a) the land in which the interest subsists is or includes a dwelling-house occupied as a separate dwelling, and
  - (b) an individual is an occupier of a dwelling-house throughout the period beginning with the making of an application for assistance under this Part in respect of the dwelling and ending immediately before the completion of the authority's acquisition, and
  - (c) he is a statutory tenant of the dwelling-house at the end of that period, and
  - (d) no notice was given in respect of the original tenancy in accordance with any of Cases 11 to 18 and 20 in Schedule 15 to the Rent Act 1977 (notice that possession might be recovered under that Case) or under section 52(1)(b) of the Housing Act 1980 (notice that tenancy is to be a protected shorthold tenancy), and
  - (e) the interest of the person entitled to assistance would, if the statutory tenancy were a contractual tenancy, be subject to the tenancy at the end of the period mentioned in paragraph (b),

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the authority shall grant him a secure tenancy (of that dwelling-house or another: see section 556) on the completion of their acquisition of the interest concerned.

- (2) Where two or more persons qualify for the grant of a tenancy under this section in respect of the same dwelling-house, the authority shall grant the tenancy to such one or more of them as they may agree among themselves or (if there is no such agreement) to all of them.
- (3) If at any time after the service of a notice of determination it appears to the purchasing authority that a person may be entitled to request them to grant him a secure tenancy under this section, they shall forthwith give him notice in writing of that fact.

### **556 Alternative accommodation under s. 554 or 555.**

- (1) The dwelling-house to be let under the tenancy granted to a person—
  - (a) under section 554 or 555 (grant of tenancy to former owner-occupier or statutory tenant of defective dwelling-house acquired by authority), or
  - (b) under arrangements made for the purposes of section 554,
 shall be the dwelling-house of which he is the occupier immediately before the completion of the authority's acquisition (the "current dwelling-house"), except in the following Cases.

#### *Case 1*

By reason of the condition of any building of which the current dwelling-house consists or of which it forms part, the dwelling-house may not safely be occupied for residential purposes.

#### *Case 2*

The authority intend, within a reasonable time of the completion of their acquisition of the interest concerned—

- (a) to demolish or reconstruct the building which consists of or includes the defective dwelling in question, or
- (b) to carry out work on any building or land in which the interest concerned subsists,

and cannot reasonably do so if the current dwelling-house remains in residential occupation.

- (2) In those Cases the dwelling-house to be let shall be another dwelling-house which, so far as is reasonably practicable in the case of that authority, affords accommodation which is—
  - (a) similar as regards extent and character to the accommodation afforded by the current dwelling-house,
  - (b) reasonably suitable to the means of the prospective tenant and his family, and
  - (c) reasonably suitable to the needs of the prospective tenant and his family as regards proximity to place of work and place of education.

### **557 Request for tenancy under s. 554 or 555.**

- (1) An authority are not required to grant, or arrange for the grant of, a tenancy to a person under section 554 or 555 unless he requests them to do so in writing before—
  - (a) in the case of an acquisition under Schedule 20 (repurchase,), the service on the person entitled to assistance of a copy of the agreement drawn up under paragraph 5 of that Schedule, or

- (b) in the case of an acquisition in the circumstances described in section 549(3) (acquisition in pursuance of right of pre-emption, &c.), the time of the disposal.
- (2) An authority receiving a request under subsection (1) shall, as soon as reasonably practicable, give notice in writing to the person making the request stating whether in their opinion either of the Cases in section 556(1) applies (cases in which tenancy may be of a dwelling-house other than the current dwelling-house).
- (3) If their opinion is that either Case does apply, the notice shall also state which of the Cases is applicable and the effect of section 556.

### **558 Interpretation of ss. 553 to 557.**

In sections 553 to 557 (effect of repurchase on occupier)—

- (a) “dwelling-house” has the same meaning as in Part IV (secure tenancies);
- (b) “occupier”, in relation to a dwelling-house, means a person who occupies the dwelling-house as his only or principal home or (in the case of a statutory tenant) as his residence;
- (c) references to the grant of a secure tenancy are to the grant of a tenancy which would be a secure tenancy assuming that the tenant under the tenancy occupies the dwelling-house as his only or principal home

#### *Local schemes*

### **559 Designation of defective dwellings under local schemes.**

- (1) A local housing authority may by resolution designate as a class buildings in their district each of which consists of or includes one or more dwellings if it appears to them that—
  - (a) buildings in the proposed class are defective by reason of their design or construction, and
  - (b) by virtue of the circumstances mentioned in paragraph (a) having become generally known, the value of some or all of the dwellings concerned has been substantially reduced.
- (2) Subsection (1) does not apply to a building in a class designated under section 528 (designation by Secretary of State); but a building does not cease to be included in a class designated under this section by virtue of its inclusion in a class designated under that section.
- (3) A dwelling which is, or is included in, a building in a class so designated is referred to in this Part as a “defective dwelling”; and in this Part, in relation to such a dwelling—
  - (a) “The qualifying defect” means what, in the opinion of the authority, is wrong with the buildings in that class, and
  - (b) “the cut-off date” means the date by which, in the opinion of the authority, the circumstances mentioned in subsection (1)(a) became generally known.
- (4) A designation shall describe the qualifying defect and specify—
  - (a) the cut-off date,
  - (b) the date (being a date falling on or after the cut-off date) on which the designation is to come into operation, and

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- (c) the period within which persons may seek assistance under this Part in respect of the defective dwellings concerned.
- (5) A designation may not describe a designated class by reference to the area (other than the authority's district) in which the buildings concerned are situated; but a designated class may be so described that within the authority's district there is only one building in the class.
- (6) Any question arising as to whether a building is or was at any time in a class designated under this section shall be determined by the local housing authority concerned.

**560 Variation or revocation of designation under local scheme.**

- (1) The local housing authority may by resolution—
  - (a) vary a designation under section 559, but not so as to vary the cut-off date, or
  - (b) revoke such a designation.
- (2) The authority may by a variation of the designation extend the period referred to in section 559(4)(c) (period within which assistance must be applied for) whether or not it has expired.
- (3) The variation or revocation of a designation does not affect the operation of the provisions of this Part in relation to a dwelling if, before the variation or revocation comes into operation, the dwelling is a defective dwelling by virtue of the designation in question and application for assistance under this Part has been made.

**561 Secretary of State's control over designation, variation or revocation.**

- (1) Where a local housing authority have passed a resolution under—
  - (a) section 559 (designation under local scheme) or,
  - (b) section 560 (variation or revocation of designation under local scheme),
 they shall give written notice to the Secretary of State of the resolution before the expiry of the period of 28 days beginning with the date on which it is passed.
- (2) The designation, variation or revocation shall not come into operation before the expiry of the period of two months beginning with the receipt by the Secretary of State of the notice under subsection (1).
- (3) If within that period the Secretary of State serves notice in writing to that effect on the authority, the designation, revocation or variation shall not come into operation.

*Miscellaneous*

**562 Duty of local housing authority to publicise availability of assistance.**

- (1) A local housing authority shall, within the period of three months beginning with the coming into operation of—
  - (a) a designation under section 528 (designation of defective dwellings by Secretary of State) or section 559 (designation of defective dwellings under local scheme), or,
  - (b) a variation of such a designation,



publish in a newspaper circulating in their district notice suitable for the purpose of bringing the effect of the designation or variation to the attention of persons who may be eligible for assistance in respect of such of the dwellings concerned as are situated within their district.

- (2) No such notice need be published by a local housing authority who are of opinion—
  - (a) that none of the dwellings concerned are situated in their district, or
  - (b) that no-one is likely to be eligible for assistance in respect of the dwellings concerned which are situated in their district.
- (3) If at any time it becomes apparent to a local housing authority that a person is likely to be eligible for assistance in respect of a defective dwelling within their district, they shall forthwith take such steps as are reasonably practicable to inform him of the fact that assistance is available.

### **563 Duties of public sector authority disposing of defective dwelling.**

- (1) A public sector authority shall, where a person is to acquire a relevant interest in a defective dwelling on a disposal by the authority, give him notice in writing before the time of the disposal—
  - (a) specifying the qualifying defect, and
  - (b) stating that he will not be eligible for assistance under this part in respect of the dwelling.
- (2) A public sector authority shall, before they convey a relevant interest in a defective dwelling in pursuance of a contract to a person on whom a notice under subsection (1) has not been served, give him notice in writing—
  - (a) specifying the qualifying defect,
  - (b) stating, where the time of disposal of the interest falls after the cut-off date, that he will not be eligible for assistance under this Part, and
  - (c) stating the effect of subsection (3)
- (3) A person on whom a notice under subsection (2) is served—
  - (a) is not obliged to complete the conveyance before the expiry of the period of six months beginning with the service of that notice on him, and
  - (b) may within that period withdraw from the transaction by notice in writing to the authority to that effect;and upon such a notice of withdrawal being given to the authority the parties to the contract are discharged from any obligations in connection with it and any deposit paid shall be repaid.
- (4) Where a public sector authority are required to serve a notice under section 124 (landlord's response to notice claiming to exercise right to buy) in respect of a defective dwelling, the notice under subsection (1) shall be served with that notice.
- (5) A notice under subsection (1) or (2) shall, (except in the case of a notice under subsection (1) which is served in accordance with subsection (4)), be served at the earliest date at which it is reasonably practicable to do so.

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**564 Reinstatement of defective dwelling by local housing authority.**

- (1) Where a relevant interest in a defective dwelling has been disposed of by a public sector authority, the local housing authority may, before the end of the period within which a person may seek assistance under this Part in respect of the dwelling, enter into an agreement with—
  - (a) any person holding an interest in the dwelling, or
  - (b) any person who is a statutory tenant of it,to execute at his expense any of the work required to reinstate the dwelling.
- (2) For the purposes of this section a disposal by or under an enactment of an interest in a dwelling held by a public sector authority shall be treated as a disposal of the interest by the authority.

**565 Death of person eligible for assistance, &c.**

- (1) Where a person who is eligible for assistance in respect of a defective dwelling—
  - (a) dies, or
  - (b) disposes of his interest in the dwelling (otherwise than on a disposal for value) to such a person as is mentioned in section 527(a) (persons qualifying for assistance: individuals, trustees for individuals and personal representatives),this Part applies as if anything done (or treated by virtue of this subsection as done) by or in relation to the person so eligible had been done by or in relation to his personal representatives or, as the case may be, the person acquiring his interest.
- (2) In sections 549 to 551 (subsidiary forms of financial assistance) references to the owner of an interest in a defective dwelling include his personal representatives.

**566 Dwellings included in more than one designation.**

The provisions of Schedule 21 have effect with respect to dwellings included in more than one designation.

**567 Modifications of this Part in relation to shared ownership leases.**

- (1) The Secretary of State may by regulations provide for this Part to have effect, in its application to a case in which the interest of a person eligible for assistance in respect of a defective dwelling is—
  - (a) a shared ownership lease, or
  - (b) the freehold acquired under the terms of a shared ownership lease,subject to such modifications as may be specified in the regulations.
- (2) The regulations may, in particular, in relation to such a case—
  - (a) make any provision that may be made by an order under section 538(2) (modification of conditions for assistance by way of reinstatement grant), or
  - (b) require an authority receiving an application for assistance to determine under section 537 that the person is entitled to assistance by way of repurchase.
- (3) An authority shall not entertain an application for assistance by a person whose interest in the defective dwelling is such as is mentioned in subsection (1)(a) or (b) unless regulations under this section are in force at the time of application in respect of that interest.

- (4) In this section “shared ownership lease” means—
- (a) a shared ownership lease granted in pursuance of Part V (the right to buy),
  - (b) a lease of a dwelling-house granted otherwise than in pursuance of that Part which contains provision to the like effect as that required by paragraphs 1 and 2 of Schedule 8 (terms of shared ownership lease: right to acquired additional shares and to acquire freehold),
  - (c) a lease of a description specified by regulations made by the Secretary of State, or
  - (d) a lease determined, or of a class determined, by the Secretary of State to be a shared ownership lease.
- (5) The fact that a lease becomes a shared ownership lease by virtue of regulations under subsection (4)(c) or a determination under subsection (4)(d) does not affect the operation of the provisions of this Part in relation to a case where an application for assistance under this Part has previously been made.
- (6) Regulations under this section—
- (a) may make different provision for England and Wales and for different descriptions of shared ownership lease, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament,

#### **568 Extension of assistance to mortgagees.**

- (1) The Secretary of State may by regulations make provision for conferring rights and obligations on a mortgagee of a defective dwelling where—
- (a) a power of sale (whether conferred by section 101 of the Law of Property Act 1925 or otherwise) is exercisable by the mortgagee, and
  - (b) the mortgagor is eligible for assistance in respect of the defective dwelling.
- (2) The rights that may be so conferred are—
- (a) rights corresponding to those conferred by this Part on a person holding a relevant interest in the defective dwelling,
  - (b) the right to require the purchasing authority to acquire in accordance with the regulations any interest in the defective dwelling to be disposed of in exercise of the power of sale, and
  - (c) where the mortgagee is the purchasing authority, the right by deed to vest the dwelling in themselves;
- and those rights may be conferred in place of rights conferred by this Part on any other person.
- (3) The regulations may provide that where the conditions in subsection (1)(a) and (b) are or have been satisfied, this Part, the power of sale in question and any enactment relating to the power of sale shall have effect subject to such modifications as may be specified in the regulations.
- (4) Where a defective dwelling is vested in a mortgagee in pursuance of—
- (a) regulations under this section, or
  - (b) section 452 and Schedule 17 (vesting of dwelling-house in authority entitled to exercise power of sale),

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the regulations may provide for the payment in respect of the vesting of an amount calculated on the assumption that none of the defective dwellings to which the designation in question relates is affected by the qualifying defect; and those enactments shall have effect subject to any such provisions.

- (5) Regulations under this section—
- (a) may make different provision for different cases and may make incidental and consequential provision; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “mortgagee” and “mortgagor” have the same meaning as in the Law of Property Act 1925.

#### *Contributions by Secretary of State*

### **569 Contributions by Secretary of State.**

- (1) The Secretary of State may, if he thinks fit in any case, contribute towards the expense incurred by a local housing authority—
- (a) in giving assistance by way of reinstatement grant,
  - (b) in giving assistance by way of repurchase of a dwelling which is a defective dwelling by virtue of a designation under section 528 (designation by Secretary of State), or
  - (c) in making payments under section 549 (making up of consideration on disposal in pursuance of right of pre-emption, &c.) or section 550 (making up of compulsory purchase compensation).
- (2) The contributions shall be annual payments—
- (a) in respect of a period of 20 years beginning with the financial year in which, as the case may be, the work in respect of which the grant was payable was completed, the acquisition of the interest concerned was completed or the payment was made, and
  - (b) of a sum equal to the relevant percentage of the annual loan charges referable to the amount of the expense incurred.
- (3) The relevant percentage is—
- (a) 90 per cent. in the case of reinstatement grant.
  - (b) 75 per cent. in the case of repurchase or a payment under section 549 or 550 where there has at any time been a disposal of a relevant interest in the defective dwelling by the local housing authority or a predecessor of that authority, and
  - (c) 100 per cent. in the case of repurchase or a payment under those sections not within paragraph (b);
- or such other percentage as, in any of those cases, may be provided by order under section 570.
- (4) The amount of expense incurred is—
- (a) in the case of reinstatement grant, the amount of the grant,
  - (b) in the case of repurchase, the price paid for the acquisition, together with any amount reimbursed under section 552 (incidental expenses), less the value of

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- the interest at the relevant time determined in accordance with paragraph 8 of Schedule 20 (value for purposes of repurchase) but without the assumption required by paragraph 8(1)(a) (assumption that dwelling is defect free),
- (c) in the case of a payment under section 549 or 550, the amount of the payment.
- (5) The annual loan charges referable to the amount of the expense incurred means the annual sum which, in the opinion of the Secretary of State, would fall to be provided by a local housing authority for the payment of interest on, and the repayment of, a loan of that amount repayable over a period of 20 years.
- (6) Payment of contributions under this section is subject to the making of a claim in such form, and containing such particulars, as the Secretary of State may determine; and the contributions are payable at such times, in such manner and subject to such conditions, as to records, certificates, audit or otherwise, as the Secretary of State may, with the agreement of the Treasury, determine.

**570 Power to vary relevant percentage.**

- (1) The Secretary of State may by order made with the consent of the Treasury vary all or any of the percentages specified in section 569(3) (relevant percentages for purposes of contribution to expenditure of local housing authority) in respect of assistance or payments, or a class of assistance or payments, specified in the order.
- (2) An order—
- (a) may make different provision for assistance given or payments made in respect of defective dwellings in different areas or under different provisions or for different purposes of the same provision;
- (b) shall be made by statutory instrument; and
- (c) shall not be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.
- (3) An order applies to assistance given or payments made in pursuance of applications made after such date as may be specified in the order, and the specified date shall not be earlier than the date of the laying of the draft.

*Supplementary provisions*

**571 Service of notices.**

- (1) A notice or other document under this Part may be given to or served on a person, and an application or written request under this Part may be made to a person—
- (a) by delivering it to him or leaving it at his proper address, or
- (b) by sending it to him by post,
- and also, where the person concerned is a body corporate, by giving or making it to or serving it on the secretary of that body.
- (2) For the purposes of this section, and of section 7 of the Interpretation Act 1978 as it applies for the purposes of this section, the proper address of a person is—
- (a) in the case of a body corporate or its secretary, the address of the principal office of the body,
- (b) in any other case, his last known address,

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and also, where an additional address for service has been specified by that person in a notice under section 548(2) (notice of intention to assume responsibility for repurchase), that address.

**572 Jurisdiction of county court.**

- (1) The county court has jurisdiction—
  - (a) to determine any question arising under this Part notwithstanding that a declaration is the only relief sought, and
  - (b) to entertain any proceedings brought in connection with the performance or discharge of obligations arising under this Part, including proceedings for the recovery of damages in the event of the obligations not being performed.
- (2) Subsection (1) has effect subject to—
  - sections 528(6) and 559(6) (questions of designation to be decided by designating authority), and
  - section 551(3) and paragraph 9 of Schedule 20 (questions of valuation to be determined by district valuer).
- (3) Where an authority fail to extend or further extend a period when required to do so by—
  - (a) section 542(3) (reinstatement grant: period within which work is to be completed), or
  - (b) paragraph 2(2) or 6(2) of Schedule 20 (repurchase: period for service of request or notice by person entitled to assistance),
 the county court may by order extend or further extend that period until such date as may be specified in the order.
- (4) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this section.
- (5) The rules and directions may provide for the exercise by a registrar of the county court of any jurisdiction exercisable under this section.
- (6) Rules under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**573 Meaning of “public sector authority”.**

- (1) In this Part “public sector authority” means—
  - a local authority (or a predecessor of a local authority),
  - a joint board of which every constituent member is, or is appointed by, a local authority (or a predecessor of a local authority),
  - the Peak Park Joint Planning Board,
  - the Lake District Special Planning Board,
  - a water authority,
  - the Housing Corporation,
  - a registered housing association other than a co-operative housing association (or a predecessor housing association of such an association),
  - a new town corporation,
  - the Development Board for Rural Wales,

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the National Coal Board, or  
the United Kingdom Atomic Energy Authority,  
or a body corporate or housing association specified by order of the Secretary of State  
in accordance with the following provisions.

- (2) The Secretary of State may provide that a body corporate shall be treated as a public sector authority if he is satisfied—
  - (a) that the affairs of the body are managed by its members, and
  - (b) that its members hold office by virtue of appointment (to that or another office) by a Minister of the Crown under an enactment,or if he is satisfied that it is a subsidiary of such a body.
- (3) The Secretary of State may provide that a housing association shall be treated as a public sector authority if he is satisfied that the objects or powers of the association include the provision of housing accommodation for individuals employed at any time by a public sector authority or dependants of such individuals.
- (4) Where the Secretary of State is satisfied that a body or association met the requirements of subsection (2) or (3) during any period, he may, whether or not he makes an order in respect of the body or association under that subsection, provide that it shall be treated as having been a public sector authority during that period.
- (5) If the Secretary of State is satisfied that a body or association specified in an order under subsection (2) or (3) has ceased to meet the requirements of that subsection on any date, he may by order provide that it shall be treated as having ceased to be a public sector authority on that date.
- (6) An order under this section shall be made by statutory instrument.

**574 Disposal of certain Crown interests in land treated as disposal by public sector authority.**

References in this Part to a disposal of an interest in a dwelling by a public sector authority include a disposal of—

- (a) an interest belonging to Her Majesty in right of the Crown,
- (b) an interest belonging to, or held in trust for Her Majesty for the purposes of, a government department or Minister of the Crown, or
- (c) an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall.

**575 Meaning of “dwelling” and “house”.**

- (1) In this Part “dwelling” means any house, flat or other unit designed or adapted for living in.
- (2) For the purposes of this Part a building so designed or adapted is a “house” if it is a structure reasonably so called; so that where a building is divided into units so designed or adapted—
  - (a) if it is so divided horizontally, or a material part of a unit lies above or below another unit, the units are not houses (though the building as a whole may be), and
  - (b) if it is so divided vertically, the units may be houses.

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- (3) Where a house which is divided into flats or other units is a defective dwelling in respect of which a person is eligible for assistance, the fact that it is so divided shall be disregarded for the purposes of section 538(1)(a) (first condition for assistance by way of reinstatement: that the dwelling is a house).

**576 Meaning of “lending institution”.**

In this Part “lending institution” means—  
 a building society,  
 a bank,  
 a trustee savings bank, or  
 an insurance company.

**577 Index of defined expressions: Part XVI.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expressions used in the same section or paragraph:—

the agreement (in Part III of Schedule 20)	paragraph 11(1) of Schedule 20
appropriate percentage (in relation to reinstatement grant)	section 543(2)
associated arrangement	section 539(2)
the authority (in Part III of Schedule 20)	paragraph 11(1) of Schedule 20
bank	section 622
building society	section 622
charge (in Part III of Schedule 20)	paragraph 11(2)(a) of Schedule 20
the conveyance (in Part III of Schedule 20)	paragraph 11(1) of Schedule 20
co-operative housing association	section 5(2)
cut-off date	sections 528(2)(b) and 559(3)(b)
defective dwelling	sections 528(2) and 559(3)
development corporation	section 4(c)
disposal	section 532(1)
disposal for value	section 532(3)
district (of a local housing authority)	section 2(1)
district valuer	section 622
dwelling	section 575(1)
dwelling-house (in sections 553 to 557)	section 558(a)
eligible for assistance	sections 527 and 533



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house	section 575(2)
housing association	section 5(1)
insurance company	section 622
the interest acquired (in Part III of Schedule 20)	paragraph 11(1) of Schedule 20
interest in a dwelling	section 530(4)
interest to be acquired (in relation to repurchase)	paragraph 1 of Schedule 20
lending institution	section 576
local authority	section 4(e)
local housing authority	section 1, 2(2)
new town corporation	section 4(b)
notice of determination	section 540(1)
occupier (in sections 553 to 557)	section 558(b)
person entitled to assistance (by way of reinstatement grant or repurchase)	section 540(5)
previous disposal	section 532(4)
protected tenancy	section 622
public sector authority	section 573 (and see section 574)
the purchase price (in Part III of Schedule 20)	paragraph 11(1) of Schedule 20
purchasing authority	section 548(3)
qualifying defect	sections 528(2)(a) and 559(3)(a)
qualifying work	section 541(2)
registered (in relation to a housing association)	section 5(4)
reinstatement grant	section 541(1)
relevant charge (in Part III of Schedule 20)	paragraph 7(2) of Schedule 20
relevant interest	section 530(1)
the relevant time (in relation to valuation for repurchase)	paragraph 7(2) of Schedule 20
repurchase	section 547
secure tenancy	section 79 (and see section 558(c))
statutory tenancy and statutory tenant	section 622
subsidiary	section 622
time of disposal	section 532(2)

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trustee savings bank	section 622
the vendor (in Part III of Schedule 20)	paragraph 11(1) of Schedule 20
work required to reinstate a defective dwelling	section 539(1)

## PART XVII

### COMPULSORY PURCHASE AND LAND COMPENSATION

#### *Introductory*

**578 General enactments relating to compulsory purchase, &c., apply subject to this Part.**

The Acquisition of Land Act 1981, the Compulsory Purchase Act 1965 and the Land Compensation Act 1961 apply to the compulsory purchase of land under this Act subject to the following provisions of this Part.

**579 Special provision as regards acquisition of land for clearance.**

- (1) The Acquisition of Land Act 1981 does not apply (except so far as expressly applied) to the compulsory purchase of land under section 290 (acquisition of land for clearance); instead, the provisions of Schedule 22 apply with respect to the making, confirmation, validity and operation of a compulsory purchase order under that section.
- (2) However, in relation to a compulsory purchase order under that section—
  - (a) the provisions of Part I of the Compulsory Purchase Act 1965 apply as they apply to a compulsory purchase order under the Acquisition of Land Act 1981 (references to “the special Act” being read as references to this Act and the order); and
  - (b) the compensation payable shall be assessed in accordance with the Land Compensation Act 1961,
 subject to the following provisions of this Part.

#### *Compulsory purchase*

**580 Incorporation of enactments relating to mineral rights.**

A compulsory purchase order under section 290 (acquisition of land for clearance) shall incorporate Parts II and III of Schedule 2 to the Acquisition of Land Act 1981 (mineral rights).

**581 Acquisition of commons, open spaces, &c.**

- (1) In so far as a compulsory purchase order under section 290 (acquisition of land for clearance) authorises the purchase of land forming part of a common, open space or allotment, the order shall be subject to special parliamentary procedure except where

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it provides for giving in exchange for such land other land, not being less in area, certified by the Secretary of State to be equally advantageous to the persons, if any, entitled to commonable or other rights and to the public.

- (2) Before giving a certificate the Secretary of State shall give public notice of the proposed exchange, shall afford opportunities to all persons interested to make representations and objections in relation to it and shall, if necessary, hold a local inquiry on the subject.
- (3) An order which authorises such an exchange shall provide for—
  - (a) vesting the land given in exchange in the persons in whom the common, open space or allotment was vested, subject to the same rights, trusts and incidents as attached to the common, open space or allotment, and
  - (b) discharging the land acquired from all rights, trusts and incidents to which it was previously subject.

- (3) In this section—

“common” includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882, and any town or village green;

“open space” means any land laid out as a public garden or used for the purposes of public recreation, or land which is a disused burial ground;

“allotment” means any allotment set out as a fuel or field garden allotment under an Inclosure Act.

## **582 Restriction on recovery of possession after making of compulsory purchase order.**

- (1) This section applies where a local housing authority have made a compulsory purchase order authorising—
  - (a) the acquisition of a house in multiple occupation under—
    - section 17 (provision of housing),
    - section 192 (house subject to repair order found to be beyond repair) or
    - section 300 (purchase of condemned house for temporary housing use),or
  - (b) the acquisition of land under section 243(2) (land in housing action area on which there are premises consisting of or including housing accommodation), and within the period specified in subsection (2) proceedings for possession of premises forming part of the house or land in question are brought in the county court against a person who was the lessee of the premises when the order was made, or became the lessee after the order was made, but is no longer the lessee.
- (2) The period referred to in subsection (1) is the period beginning with the making of the compulsory purchase order and ending with—
  - (a) the third anniversary of the date on which the order became operative, or
  - (b) any earlier date on which the Secretary of State notifies the authority that he declines to confirm the order or the order is quashed by a court.
- (3) Where this section applies the court may suspend the execution of any order for possession for such period, and subject to such conditions, as it thinks fit.

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- (4) The period of suspension ordered by the court shall not extend beyond the end of the period of three years beginning with the date on which the court makes its order or, if earlier, the date on which the compulsory purchase order became operative.
- (5) The court may from time to time vary the period of suspension (but not so as to enlarge it beyond the end of the period of three years referred to in subsection (4)), or terminate it, or vary the terms of the order in other respects.
- (6) If at any time—
- (a) the Secretary of State notifies the authority that he declines to confirm the compulsory purchase order, or the order is quashed by a court, or
  - (b) the authority decide, whether before or after the order has been submitted to the Secretary of State for confirmation, not to proceed with it,
- the authority shall notify the person entitled to the benefit of the order for possession and that person shall be entitled, on applying to the court, to obtain an order terminating the period of suspension, but subject to the exercise of the same discretion in fixing the date on which possession is to be given as the court might exercise if it were then making an order for possession for the first time.
- (7) This section does not apply—
- (a) where the person entitled to possession of the premises is the local housing authority;
  - (b) where the net annual value for rating of the premises exceeds the county court limit for the purposes of section 21(1) of the County Courts Act 1984 (actions for the recovery of land).
- (8) In this section “house in multiple occupation” has the same meaning as in Part XI.

**583 Continuance of tenancies of houses compulsorily acquired and to be used for housing purposes.**

- (1) Where a local housing authority—
- (a) are authorised to purchase compulsorily a house which is to be used for housing purposes, and
  - (b) have acquired the right to enter on and take possession of the house by virtue of having served a notice under section 11 of the Compulsory Purchase Act 1965,
- they may, instead of exercising that right by taking actual possession of the house, proceed by serving notice on any person then in occupation of the house, or part of it, authorising him to continue in occupation upon terms specified in the notice or on such other terms as may be agreed.
- (2) Where the authority proceed in accordance with subsection(1)—
- (a) the like consequences follow with respect to the determination of the rights and liabilities of any person arising out of any interest of his in the house, or a part of it, and
  - (b) the authority may deal with the premises in all respects, as if they had taken actual possession on the date of the notice.
- (3) A person who by virtue of this section ceases to be entitled to receive rent in respect of the premises shall be deemed for the purposes of section 20 of the Compulsory

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Purchase Act 1965 (compensation of tenants, &c.) to have been required to give up possession of the premises.

- (4) In this section “house” includes—
- (a) any part of a building which is occupied as a separate dwelling, and
  - (b) any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it.

**584 Power to enter and determine short tenancies of land acquired or appropriated.**

- (1) This section applies where a local housing authority have agreed to purchase or have determined to appropriate land for the purposes of—
- Part II (provision of housing),
  - Part VIII (area improvement), or
  - the provisions of Part IX relating to clearance areas,
- subject to the interest of the person in possession of the land.
- (2) If that person’s interest is not greater than that of a tenant for a year, or from year to year, the authority may, after giving him not less than 14 days’ notice, enter on and take possession of the land, or such part of the land as is specified in the notice, without previous consent.
- (3) The power conferred by subsection (2) may be exercised at any time after the making of the agreement or determination, except where the appropriation requires Ministerial consent in which case the power is not exercisable until that consent has been given.
- (4) The exercise of the local housing authority’s power under subsection (2) is subject to the payment to the person in possession of the like compensation, and interest on the compensation awarded, as would be payable if—
- (a) the authority had been authorised to acquire the land compulsorily, and
  - (b) that person had been required in pursuance of their powers in that behalf to quit possession before the expiry of his term or interest in the land;
- but without any necessity for compliance with section 11 of the Compulsory Purchase Act 1965 (which prohibits entry on the land acquired before the compensation has been ascertained and paid or secured).

*Site value compensation for unfit houses and related matters*

**585 Site value compensation for unfit houses.**

- (1) The compensation payable for—
- (a) a house purchased compulsorily under section 192 (unfit house found to be beyond repair at reasonable cost),
  - (b) land purchased under section 290 as being comprised in a clearance area, except as mentioned in subsection (2), or
  - (c) a house purchased compulsorily under section 300 (purchase of condemned houses for temporary housing use),

is the value at the time when the valuation is made of the site as a cleared site available for development in accordance with the requirements of the building regulations in force in the district.

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- (2) Subsection (1)(b) does not apply to the site of a house or other building properly included in a clearance area only on the ground that it is dangerous or injurious to the health of the inhabitants of the area by reason of its bad arrangement in relation to other buildings or the narrowness or bad arrangement of the streets, unless—
- (a) it is a building constructed or adapted as, or for the purposes of, a dwelling, or partly for those purposes and partly for other purposes, and
  - (b) part of it (not being a part used for other purposes) is unfit for human habitation.
- (3) The provisions of this section as to site value compensation are without prejudice to any further payment falling to be made under—
- section 586 and Schedule 23 (well maintained houses),
  - section 587 and Schedule 24 (houses which are owner-occupied or used for business purposes), or
  - section 589(2) (minimum compensation in certain cases),
- and have effect subject to section 589(1) (maximum compensation in certain cases).

**586 Payments in respect of well maintained houses.**

The provisions of Schedule 23 have effect as regards payments in respect of well maintained houses purchased at site value or demolished or closed under this Act.

**587 Payments in respect of houses which are owner-occupied or used for business purposes.**

The provisions of Schedule 24 have effect as regards payments in respect of houses purchased at site value or demolished or closed under this Act, as follows—

Part I: Payments in respect of owner-occupied houses.

Part II: Payments in respect of houses used for business purposes.

**588 Avoidance of double compensation.**

- (1) Where a payment falls to be made in respect of an interest in a house under Schedule 24 (payments in respect of houses which are owner-occupied or used for business purposes), no payment shall be made in respect of that house under Schedule 23 (payments for well maintained houses) unless the other payment relates to part only of the house, and in that case such part only of the amount which would otherwise be payable in accordance with Schedule 23 shall be payable as may reasonably be attributable to the remainder of the house.
- (2) In Schedules 23 and 24 references to a demolition order do not include such an order in respect of a house already subject to a closing order so far as it affects any part of the house in relation to which a payment under either of those Schedules has fallen to be made in respect of the closing order.

**589 Maximum and minimum compensation where s. 585 applies.**

- (1) Subject to the following provisions of this section, the compensation payable in respect of a compulsory acquisition in relation to which section 585 applies (site value compensation) shall not in any event exceed the amount which would have been payable if—

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- (a) that section did not apply, and
  - (b) in a case where any of the relevant land is in a clearance area, that area had not been declared to be a clearance area,

but in all other respects the acquisition had been effected in the circumstances in which it actually is effected.
- (2) Where section 585 applies in relation to a compulsory acquisition of land which consists of or includes the whole or part of a house and—
  - (a) on the date of the making of the compulsory purchase order the person then entitled to the relevant interest was, in right of that interest, in occupation of the house, or part of it, as a private dwelling, and
  - (b) that person either continues, on the date of service of the notice to treat, to be entitled to the relevant interest, or if he has died before that date, continued to be entitled to that interest immediately before his death,

the amount of the compensation payable in respect of the acquisition of that interest, together with any amount payable under Schedules 23 or 24 (payments for well maintained houses and houses which are owner-occupied or used for business purposes), shall not in any event be less than the gross value of the dwelling.
- (3) The gross value of the dwelling for this purpose shall be determined as follows—
  - (a) if the dwelling constitutes the whole of the house, its gross value is that shown in the valuation list in force on the date of service of the notice to treat as the gross value of the house for rating purposes;
  - (b) if the dwelling is only part of the house, its gross value is the amount certified by the district valuer as being properly attributable to the dwelling on an apportionment of the gross value of the house as determined under paragraph (a).
- (4) The gross value of a dwelling whose rateable value is by virtue of subsection (1) of section 19 of the General Rate Act 1967 to be taken to be its next annual value, as ascertained in accordance with subsections (2) to (4) of that section, shall be taken to be its corresponding gross value.
- (5) The corresponding gross value means a gross value which would be equivalent to the net annual value of the dwelling as shown in the valuation list if there were deducted any amount that by virtue of an order made or falling to be treated as made under section 19(2) of the General Rate Act 1967 would be deducted from the gross value of the dwelling if it had been required to be assessed to its gross value instead of its net annual value.
- (6) If more than one value is so ascertained to be the corresponding gross value, the highest value so ascertained shall be taken.

#### **590 Repayment on revocation of demolition or closing order.**

- (1) Where a payment in respect of a house has been made by a local housing authority under Schedule 23 or 24 in connection with a demolition or closing order and—
  - (a) the demolition order is revoked under section 274 (revocation of demolition order to permit reconstruction of house), or
  - (b) the closing order is determined under section 278 (determination of closing order on premises being rendered fit),

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then, if at that time the person to whom the payment was made is entitled to an interest in the house, he shall on demand repay the payment to the authority.

- (2) In subsection (1) “interest” in the house does not include the interest of a tenant for a year or any less period or of a statutory tenant.
- (3) Where by virtue of section 278 a closing order is determined as respects part of the premises to which it relates and—
  - (a) a payment has been made by the local housing authority in respect of the premises in pursuance of Schedule 23 or 24, and
  - (b) if the order and payment had related only to that part of the premises any person would by virtue of subsection (1) have been liable on demand to repay the payment to the authority,
 that person shall on demand pay to the authority an amount equal to the appropriate fraction of the payment.
- (4) The appropriate fraction of the payment is, except where subsection (5) applies, the fraction obtained by dividing the rateable value of the part of the premises in question by the rateable value of the premises.
- (5) If the payment was reduced in pursuance of paragraph 4(3) of Part I of Schedule 24 (reduction where part of premises not occupied for purposes of private dwelling), the appropriate fraction is the fraction obtained by dividing the rateable value of so much of the part of the premises in question as was used for the purposes of a private dwelling by the rateable value of so much of the premises as was so used.
- (6) For the purposes of subsections (4) and (5) the rateable value of premises or a portion of them is—
  - (a) if the premises or portion are a hereditament for which a rateable value is shown in the valuation list in force on the date on which the closing order was made, that rateable value;
  - (b) if the premises or portion form part only of such a hereditament, or consist of or form part of more than one such hereditament, such value as is found by a proper apportionment or aggregation of the rateable value or values shown;
 and any question arising as to the proper apportionment or aggregation of any value or values shall be referred to and determined by the district valuer.

## **591 Modifications of obligations under mortgages etc.**

- (1) This section applies where—
  - (a) a house is purchased at site value in accordance with section 585 (site value compensation for unfit houses), or
  - (b) is vacated in pursuance of a demolition or closing order under section 265 (unfit houses beyond repair at reasonable cost), or
  - (c) might have been the subject of such a demolition order but is vacated and demolished in pursuance of an undertaking for its demolition given to the local housing authority.
- (2) Where this section applies and a relevant interest in the house is subject to a mortgage or charge, or to an agreement to purchase by instalments, either party to the mortgage, charge or agreement may apply to the county court which may, after giving the other party an opportunity to be heard, make an order—



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- (a) in the case of a house which has been purchased compulsorily, discharging or modifying any outstanding liabilities of the holder of the interest by virtue of any bond, covenant or other obligation with respect to the debt secured by the mortgage or charge or by virtue of the agreement, or
- (b) in the case of a house vacated in pursuance of a demolition or closing order, or of an undertaking, discharging or modifying the terms of the mortgage, charge or agreement,

and in either case either unconditionally or subject to such terms and conditions, including conditions with respect to the payment of money, as the court may think just and equitable to impose.

- (3) An interest is a relevant interest for the purposes of this section if—
  - (a) a payment in respect of it falls to be made under Part I of Schedule 24 (payments in respect of owner-occupied houses), and
  - (b) it is subject to the mortgage, charge or agreement, at the date when the house is purchased compulsorily or, as the case may be, vacated.
- (4) An interest is also a relevant interest for the purposes of this section if—
  - (a) it is an interest in right of which, at the date of the making of the compulsory purchase or other order, or the giving of the undertaking, a person occupies the whole or part of the house as a private dwelling, and
  - (b) that person continues to own the interest until the end of the period mentioned in subsection (5), and
  - (c) the interest is subject to the mortgage, charge or agreement throughout that period.
- (5) The period referred to in subsection (4) is the period from the date of the making of the compulsory purchase or other order, or the giving of the undertaking to—
  - (a) in the case of a compulsory purchase order, the date of service of notice to treat (or deemed notice to treat) for purchase of the interest or, if the purchase is effected without service of notice to treat, the date of completion of the purchase, and
  - (b) in the case of any other order or of an undertaking, the date of vacation of the house in pursuance of the order or undertaking,or, if the owner of the interest died before the date specified in paragraph (a) or (b), to the date of death.

- (6) In this section—
  - “house” includes any building constructed or adapted wholly or partly as, or for the purposes of, a dwelling; and
  - “interest” in a house does not include the interest of a tenant for a year or any less period or of a statutory tenant.

## **592 Factors to be considered in proceedings under s. 591.**

- (1) In determining what order, if any, to make under section 591 (modification of obligations under mortgage, &c.) the court shall have regard to all the circumstances of the case, and in particular to the following matters.
- (2) In the case of a mortgage or charge the court shall have regard to whether the mortgagee or person entitled to the benefit of the charge acted reasonably in advancing the principal sum on the terms of the mortgage or charge; and that person shall be

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deemed to have acted unreasonably if, at the time when the mortgage or charge was made, he knew or ought to have known that in all the circumstances of the case the terms of the mortgage or charge did not afford sufficient security for the principal sum advanced.

- (3) In the case of a mortgage or charge the court shall have to regard to the extent to which the house may have become unfit for human habitation owing to default on the part of the mortgagor or person entitled to the interest charged in carrying out any obligation under the terms of the mortgage or charge with respect to the repair of the house.
- (4) In the case of a mortgage or charge securing a sum which represents all or any part of the purchase price payable for the interest, the court shall have regard to whether the purchase price was excessive.
- (5) In the case of an agreement to purchase by instalments the court shall have regard to how far—
  - (a) the amount already paid by way of principal, or
  - (b) where the house has been purchased compulsorily the aggregate of that amount and so much, if any, of the compensation in respect of the compulsory purchase as falls to be paid to the vendor,
 represents an adequate price for the purchase.

*Other land compensation matters*

**593 Compensation where compulsory purchase order deemed to be made under different provision.**

Where a compulsory purchase order under section 290 (acquisition of land for clearance) is to be treated as made under Part II of this Act (provision of housing) or Part VI of the Town and Country Planning Act 1971 (planning purposes) by virtue of—

- section 305(6)(b) (building becoming listed when subject to compulsory purchase for clearance), or
- paragraph 5(3) of Schedule 11 (building in clearance area in respect of which rehabilitation order is made),

compensation for the compulsory acquisition of the land comprised in the compulsory purchase order shall be assessed in accordance with the provisions applying to a compulsory acquisition under Part II of this Act or Part VI of the 1971 Act, as the case may be.

**594 Compensation where land deemed to be appropriated for purposes of Part II.**

- (1) This section applies where an interest in land in a clearance area is, by virtue of—
  - section 305(6)(a) (building becoming listed when subject to compulsory purchase for clearance),
  - section 306(2) (building becoming listed when acquired by agreement for clearance), or
  - paragraph 6 of Schedule 11 (building in respect of which rehabilitation order is made),
 to be treated as appropriated for the purposes of Part II (provision of housing).

- (2) Compensation for the compulsory acquisition of the interest shall, where it increases the amount, be assessed to re-assessed in accordance with the provisions applying to a compulsory acquisition under Part II.
- (3) Where the interest is acquired by agreement (after the declaration of the clearance area), compensation shall, where subsection (2) would have increased the amount, be assessed and paid as if the acquisition were a compulsory acquisition under section 290 (acquisition of land for clearance) to which subsection (2) above applied; but there shall be deducted from the amount of compensation so payable any amount previously paid in respect of the acquisition of that interest by the authority.
- (4) Where subsection (2) or (3) applies, the local housing authority shall not later than six months after (as the case may be)—
  - (a) the relevant date as defined in section 305(3), or
  - (b) the date on which the rehabilitation order becomes operative in accordance with paragraph 14 of Schedule 11,serve on the person entitled to the compensation a notice in the prescribed form giving particulars of the amount of compensation payable in accordance with the provisions applying to a compulsory acquisition under Part II.
- (5) If the person served does not, within 21 days from service of the notice, accept the particulars, or if he disputes the amount stated, the question of disputed compensation shall be referred to the Lands Tribunal.
- (6) References in this section to an increase in compensation shall be read as if payments under—
  - Schedule 23 (payments for well maintained houses),
  - Schedule 24 (payments in respect of houses which are owner-occupied or used for business purposes), and
  - section 37 of the Land Compensation Act 1973 (disturbance payments for persons without compensatable interests),and any extra-statutory payments by way of additional compensation were, to the extent that they were made to the person holding the interest in question, compensation in respect of the compulsory purchase.

**595 Application of other enactments where s. 594 applies.**

- (1) Section 30 of the Compulsory Purchase Act 1965 (service of notices) applies to the notice to be served under section 594(4) (notice of particulars of compensation).
- (2) Section 594(2) shall be left out of account in considering whether under section 22 of the Compulsory Purchase Act 1965 (procedure for acquiring interest mistakenly omitted from purchase) compensation has been properly paid for the land, and accordingly does not prevent an acquiring authority from remaining in undisputed possession of the land.
- (3) Where section 594(2) makes an increase in compensation to be assessed in accordance with Schedule 2 to the Compulsory Purchase Act 1965 (absent and untraced owners)—
  - (a) a deed poll executed under paragraph 2(2) of that Schedule before the latest date for service of a notice under section 594(4) is not invalid because the increase in compensation has not been paid, and

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- (b) the local housing authority, shall not later than six months after that date, proceed under that Schedule to pay the proper additional amount into court.
- (4) A sum payable by virtue of section 594 carries interest at the rate prescribed under section 32 of the Land Compensation Act 1961 from the time of entry on the land by the local housing authority, or from vesting of the land or interest, whichever is the earlier, until payment.

**596 Power to compensate shop-keepers in areas affected by clearance.**

Where, as a result of action taken by a local housing authority under the provisions of Part IX relating to clearance areas, the population of the locality is materially decreased, the authority may pay to any person carrying on a retail shop in the locality such reasonable allowance as they think fit towards any loss involving personal hardship which in their opinion he will thereby sustain, but in estimating any such loss they shall have regard to the probable future development of the locality.

**597 Compensation payable on demolition of obstructive building.**

- (1) Where a building is demolished under section 287 (execution of obstructive building order), whether by the owner or by the local housing authority, compensation shall be paid by the authority to the owner in respect of loss arising from the demolition.
- (2) The compensation shall be assessed in accordance with Part I of the Land Compensation Act 1961 (determination of questions of disputed compensation).
- (3) In assessing the compensation no allowance shall be made on account of the demolition being compulsory.

**598 Disregard of things done to obtain increased compensation.**

Section 4 of the Acquisition of Land Act 1981 (disregard of things done to obtain increased compensation) applies in relation to compulsory purchase under section 290 (acquisition of land for clearance).

**599 Application of compensation due to another local authority.**

Compensation payable in respect of land of another local authority in pursuance of a compulsory purchase under—

- section 17 (provision of housing),
- section 192 (house subject to repair notice found to be beyond repair),
- section 290 (acquisition of land for clearance), or
- section 300 (purchase of condemned house for temporary housing use)

which would otherwise be paid into court in accordance with Schedule 1 to the Compulsory Purchase Act 1965 (purchase from persons not having power to dispose) may, if the Secretary of State consents, instead be paid and applied as he may determine.

### *Supplementary provisions*

#### **600 Powers of entry.**

- (1) A person authorised by the local housing authority or the Secretary of State may at any reasonable time, on giving 24 hours' notice of his intention to the occupier, and to the owner if the owner is known, enter premises for the purpose of survey and examination where it appears to the authority or the Secretary of State that survey or examination is necessary in order to determine whether any powers under this Part should be exercised in respect of the premises.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised.

#### **601 Penalty for obstruction.**

- (1) It is a summary offence to obstruct an officer of the local housing authority or of the Secretary of State, or any person authorised to enter premises in pursuance of this Part, in the performance of anything which he is by this Part required or authorised to do.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding level 2 on the standard scale.

#### **602 Minor definitions.**

In this Part—

“house” includes any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it;

“owner” in relation to premises—

- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years.

#### **603 Index of defined expressions: Part XVII.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or otherwise explaining an expression used in the same section or paragraph):

building regulations	section 622
business (in Part II of Schedule 24)	paragraph 5 of that Part
clearance area	section 289
closing order	section 267(2)
demolition order	
(generally)	section 267(1)
(in Schedules 23 and 24)	section 588(2)

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district valuer	section 622
house (generally)	section 602
(in Part I of Schedule 24)	paragraph 5(1) of that Part
(in Part II of Schedule 24)	paragraph 5 of that Part
interest in a house	
(in Part I of Schedule 24)	paragraph 5(1) of that Part
(in Part II of Schedule 24)	paragraph 5 of that Part
lease and lessee	section 621
local housing authority	section 1, 2(2)
member of family (in Part I of Schedule 24)	paragraph 6 of that Part
owner	section 602
prescribed	section 614
site value	section 585
relevant date (in Part I or II of Schedule 24)	paragraph 1(2) of that Part
statutory tenant	section 622
unfit for human habitation	section 604

## PART XVIII

### MISCELLANEOUS AND GENERAL PROVISIONS

#### *General provisions relating to housing conditions*

#### **604 Fitness for human habitation.**

- (1) In determining for any of the purposes of this Act whether premises are unfit for human habitation, regard shall be had to their condition in respect of the following matters—
- repair,
  - stability,
  - freedom from damp,
  - internal arrangement,
  - natural lighting,
  - ventilation,
  - water supply,
  - drainage and sanitary conveniences,
  - facilities for the preparation and cooking of food and for the disposal of waste water;

and the premises shall be deemed to be unfit if, and only if, they are so far defective in one or more of those matters that they are not reasonably suitable for occupation in that condition.

- (2) Subsection (1) does not affect the operation of sections 266 and 282 (special powers to close underground rooms deemed to be unfit for human habitation).

**605 Periodic inspection of district by local housing authority.**

- (1) The local housing authority shall cause an inspection of their district to be made from time to time with a view to determining what action to take in the performance of their functions under—
- Part VI (repair notices),
  - Part VIII (area improvement),
  - Part IX (slum clearance), and
  - Part XI (houses in multiple occupation).
- (2) For the purpose of carrying out that duty the authority and their officers shall comply with any directions the Secretary of State may give and shall keep such records and supply him with such information as he may specify.

**606 Reports on particular houses or areas.**

- (1) The proper officer of the local housing authority shall make a report in writing to the authority whenever he is of the opinion—
- (a) that a house in their district is unfit for human habitation, or
  - (b) that an area in their district should be dealt with as a clearance area;
- and the authority shall take into consideration as soon as may be any such report made to them.
- (2) If a complaint in writing that a house is unfit for human habitation, or that an area should be dealt with as a clearance area, is made to the proper officer of the local housing authority by—
- (a) a justice of the peace having jurisdiction in any part of their district, or
  - (b) a parish or community council for a parish or community within their district,
- the officer shall forthwith inspect the house or area and make a report to the authority stating the facts of the case and whether in his opinion the house is unfit for human habitation or the area should be dealt with as a clearance area.
- (3) The absence of a complaint under subsection (2) does not excuse the proper officer of the authority from inspecting a house or area or making a report on it under subsection (1)

*Environmental considerations*

**607 Local housing authority to have regard to environmental considerations.**

A local housing authority in preparing any proposals for the provision of housing accommodation, or in taking any action under this Act, shall have regard to—

- (a) the beauty of the landscape or countryside,
- (b) the other amenities of the locality, and

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- (c) the desirability of preserving existing works of architectural, historic or artistic interest;

and they shall comply with such directions in that behalf as may be given to them by the Secretary of State.

#### **608 Acquisition of ancient monuments, &c.**

Land which is the site of an ancient monument or other object of archaeological interest—

- (a) may not be acquired for the purposes of section 192 (unfit house subject to repair notice found to be beyond repair) or Part IX (slum clearance), and
- (b) may be acquired for the purposes of Part II (provision of housing) only by compulsory purchase order.

*Enforceability of covenants, &c.*

#### **609 Enforcement of covenants against owner for the time being.**

Where—

- (a) a local housing authority have disposed of land held by them for any of the purposes of this Act and the person to whom the disposal was made has entered into a covenant with the authority concerning the land, or
- (b) an owner of any land has entered into a covenant with the local housing authority concerning the land for the purposes of any of the provisions of this Act,

the authority may enforce the covenant against the persons deriving title under the covenantor, notwithstanding that the authority are not in possession of or interested in any land for the benefit of which the covenant was entered into, in like manner and to the like extent as if they had been possessed of or interested in such land.

#### **610 Power of court to authorise conversion of house into flats.**

- (1) The local housing authority or a person interested in a house may apply to the county court where—
  - (a) owing to changes in the character of the neighbourhood in which the house is situated, it cannot readily be let as a single tenement but could readily be let for occupation if converted into two or more tenements, or
  - (b) planning permission has been granted under Part III of the Town and Country Planning Act 1971 (general planning control) for the use of the house as converted into two or more separate dwelling-houses instead of as a single dwelling-house,

and the conversion is prohibited or restricted by the provisions of the lease of the house, or by a restrictive covenant affecting the house, or otherwise.

- (2) The court may, after giving any person interested an opportunity of being heard, vary the terms of the lease or other instrument imposing the prohibition or restriction, subject to such conditions and upon such terms as the court may think just.



*Miscellaneous powers of local housing authorities*

**611 Removal or alteration of apparatus of statutory undertakers.**

- (1) Where by reason of the stopping up, diversion or alteration of the level or width of a street by a local housing authority under powers exercisable by them by virtue of this Act—
  - (a) the removal or alteration of apparatus belonging to statutory undertakers, or
  - (b) the execution of works for the provision of substituted apparatus, whether permanent or temporary,is reasonably necessary for the purposes of their undertaking, the statutory undertakers may by notice in writing served on the authority require them to remove or alter the apparatus or to execute the works.
- (2) Where such a requirement is made and not withdrawn, the authority shall give effect to it unless—
  - (a) they serve notice in writing on the undertakers of their objection to the requirement within 28 days of the service of the notice upon them and
  - (b) the requirement is determined by arbitration to be unreasonable.
- (3) At least seven days before commencing any works which they are required under this section to execute, the authority shall, except in case of emergency, serve on the undertakers notice in writing of their intention to do so; and if the undertakers so elect within seven days from the date of service of the notice on them, they shall themselves execute the works.
- (4) If the works are executed by the authority, they shall be executed at the authority's expense and under the superintendence (also at the authority's expense) and to the reasonable satisfaction of the undertakers; and if the works are executed by the undertakers, they shall be executed in accordance with the reasonable directions and to the reasonable satisfaction of the authority, and the reasonable costs of the works shall be repaid to the undertakers by the authority.
- (5) Any difference arising between statutory undertakers and a local housing authority under subsection (3) or (4), and any matter which by virtue of subsection (2)(b) is to be determined by arbitration, shall be referred to and determined by an arbitrator to be appointed, in default of agreement, by the Secretary of State.
- (6) In this section—
  - (a) “statutory undertakers” means any persons authorised by an enactment, or by an order, rule or regulation made under an enactment, to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking;
  - (b) “apparatus” means sewers, drains, culverts, watercourses, mains, pipes, valves, tubes, cables, wires, transformers and other apparatus laid down or used for or in connection with the carrying, conveying or supplying to premises of a supply of water, water for hydraulic power, gas or electricity, and standards and brackets carrying street lamps;
  - (c) references to the alteration of apparatus include diversion and the alteration of position or level.

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*General provisions*

**612 Exclusion of Rent Act protection.**

Nothing in the Rent Acts prevents possession being obtained of a house of which possession is required for the purpose of enabling a local housing authority to exercise their powers under any enactment relating to housing.

**613 Liability of directors, &c. in case of offence by body corporate.**

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in any such capacity, he, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

**614 Power to prescribe forms &c.**

- (1) The Secretary of State may by regulations prescribe—
  - (a) anything which by this Act is to be prescribed; or
  - (b) the form of any notice, advertisement, statement or other document which is required or authorised to be used under or for the purposes of this Act.
- (2) The regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) The power conferred by this section is not exercisable where specific provision for prescribing a thing, or the form of a document, is made elsewhere.

**615 Dispensation with advertisements and notices.**

- (1) The Secretary of State may dispense with the publication of advertisements or the service of notices required to be published or served by a local authority under this Act if he is satisfied that there is reasonable cause for dispensing with the publication or service.
- (2) A dispensation may be given by the Secretary of State—
  - (a) either before or after the time at which the advertisement is required to be published or the notice is required to be served, and
  - (b) either unconditionally or upon such conditions, as to the publication of other advertisements or the service of other notices or otherwise, as the Secretary of State thinks fit,due care being taken by him to prevent the interests of any persons being prejudiced by the dispensation.

**616 Local inquiries.**

For the purposes of the execution of his powers and duties under this Act, the Secretary of State may cause such local inquiries to be held as he may think fit.

**617 Service of notices.**

- (1) Where under any provision of this Act it is the duty of a local housing authority to serve a document on a person who is to the knowledge of the authority—
  - (a) a person having control of premises, however defined, or
  - (b) a person managing premises, however defined, or
  - (c) a person having an estate or interest in premises, whether or not restricted to persons who are owners or lessees or mortgagees or to any other class of those having an estate or interest in premises,the authority shall take reasonable steps to identify the person or persons coming within the description in that provision.
- (2) A person having an estate or interest in premises may for the purposes of any provision to which subsection (1) applies give notice to the local housing authority of his interest in the premises and they shall enter the notice in their records.
- (3) A document required or authorised by this Act to be served on a person as being a person having control of premises (however defined) may, if it is not practicable after reasonable enquiry to ascertain the name or address of that person, be served by—
  - (a) addressing it to him by the description of “person having control of” the premises (naming them) to which it relates, and
  - (b) delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.
- (4) Where under any provision of this Act a document is to be served on—
  - (a) the person having control of premises, however defined, or
  - (b) the person managing premises, however defined, or
  - (c) the owner of premises, however defined,and more than one person comes within the description in the enactment, the document may be served on more than one of those persons.

**618 The Common Council of the City of London.**

- (1) The Common Council of the City of London may appoint a committee, consisting of so many persons as they think fit, for any purposes of this Act or the Housing Associations Act 1985 which in their opinion may be better regulated and managed by means of a committee.
- (2) A committee so appointed—
  - (a) shall consist as to a majority of its members of members of the Common Council, and
  - (b) shall not be authorised to borrow money or to make a rate,and shall be subject to any regulations and restrictions which may be imposed by the Common Council.

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- (3) A person is not, by reason only of the fact that he occupies a house at a rental from the Common Council, disqualified from being elected or being a member of that Council or any committee of that Council; but no person shall vote as a member of that Council, or any such committee, on a resolution or question which is proposed or arises in pursuance of this Act or the Housing Associations Act 1985 and relates to land in which he is beneficially interested.
- (4) A person who votes in contravention of subsection (3) commits a summary offence and is liable on conviction to a fine not exceeding level 2 on the standard scale; but the fact of his giving the vote does not invalidate any resolution or proceeding of the authority.

**619 The Inner and Middle Temples.**

- (1) For the purposes of Part XII (common lodging houses) the local housing authority—
  - (a) for the Inner Temple is the Sub-Treasurer of the Inner Temple, and
  - (b) for the Middle Temple is the Under-Treasurer of the Middle Temple.
- (2) The other provisions of this Act are among those for which provision may be made by Order in Council under section 94 of the Local Government Act 1985 (general power to provide for exercise of local authority functions as respects the Temples).

**620 The Isles of Scilly.**

- (1) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.
- (2) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**621 Meaning of “lease” and “tenancy” and related expressions.**

- (1) In this Act “lease” and “tenancy” have the same meaning.
- (2) Both expressions include—
  - (a) a sub-lease or sub-tenancy, and
  - (b) an agreement for a lease or tenancy (or sub-lease or sub-tenancy).
- (3) The expressions “lessor” and “lessee” and “landlord” and “tenant”, and references to letting, to the grant of a lease or to covenants or terms, shall be construed accordingly.

**622 Minor definitions: general.**

In this Act—

“bank” means—

- (a) a recognised bank within the meaning of the Banking Act 1979, or
- (b) a company as to which the Secretary of State was satisfied immediately before the repeal of the Protection of Depositors Act 1963 that it ought to be treated as a banking company or discount company for the purposes of that Act;

“building regulations” means—

- (a) building regulations made under Part I of the Building Act 1984,

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- (b) new street byelaws made under Part X of the Highways Act 1980, or
- (c) any provision of a local Act, or of a byelaw made under a local Act, dealing with the construction and drainage of new buildings and the laying out and construction of new streets;

“building society” means a building society within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967;

“cemetery” has the same meaning as in section 214 of the Local Government Act 1972;

“charity” has the same meaning as in the Charities Act 1960;

“district valuer” means an officer of the Commissioners of Inland Revenue appointed to be, in relation to the valuation list for the area in which the land in question is situated, the valuation or deputy valuation officer or one of the valuation officers or deputy valuation officers;

“friendly society” means a friendly society, or a branch of a friendly society, registered under the Friendly Societies Act 1974 or earlier legislation;

“general rate fund” means—

- (a) in relation to the Council of the Isles of Scilly, the general fund of that council;
- (b) in relation to the Common Council of the City of London, that council’s general rate;

“hostel” means a building in which is provided, for persons generally or for a class or classes of persons—

- (a) residential accommodation otherwise than in separate and self-contained sets of premises, and
- (b) either board or facilities for the preparation of food adequate to the needs of those persons, or both;

“insurance company” means an insurance company to which Part II of the Insurance Companies Act 1982 applies;

“protected occupancy” and “protected occupier” have the same meaning as in the Rent (Agriculture) Act 1976;

“protected tenancy” has the same meaning as in Rent Act 1977;

“regular armed forces of the Crown” means the Royal Navy, the regular forces as defined by section 225 of the Army Act 1955, the regular air force as defined by section 223 of the Air Force Act 1955, Queen Alexandra’s Royal Naval Nursing Service and the Women’s Royal Naval Service;

“the Rent Acts” means the Rent Act 1977 and the Rent (Agriculture) Act 1976;

“restricted contract” has the same meaning as in the Rent Act 1977;

“shared ownership lease” means a lease—

- (a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling or of the cost of providing it, or
- (b) under which the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling;

“standard scale”, in reference to the maximum fine on conviction of a summary offence, has the meaning given by section 75 of the Criminal Justice Act 1982;

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“statutory maximum”, in reference to the maximum fine on summary conviction of an offence triable either summarily or on indictment, has the meaning given by section 74 of the Criminal Justice Act 1982;

“statutory tenancy” and “statutory tenant” means a statutory tenancy or statutory tenant within the meaning of the Rent Act 1977 or the Rent (Agriculture) Act 1976;

“street” includes any court, alley, passage, square or row of houses, whether a thoroughfare or not;

“subsidiary” has the same meaning as in the Companies Act 1985;

“trustee savings bank” means a trustee savings bank registered under the Trustee Savings Banks Act 1981 or earlier legislation.

### 623 Minor definitions: Part XVIII.

In this Part—

“house” includes any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it;

“owner”, in relation to premises—

- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple absolute in the premises, whether in possession or in reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years.

### 624 Index of defined expressions: Part XVIII.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section):—

clearance area	section 289
district (of a local housing authority)	section 2(1)
house	section 623
lease and let	section 621
local housing authority	section 1, 2(2)
owner	section 623
Rent Acts	section 622
standard scale (in reference to the maximum fine on summary conviction)	section 622
street	section 622
unfit for human habitation	section 604

*Final provisions*

**625 Short title, commencement and extent.**

- (1) This Act may be cited as the Housing Act 1985.
- (2) This Act comes into force on 1st April 1986.
- (3) This Act extends to England and Wales only.