



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART III

#### RIGHTS OF PUBLIC SECTOR TENANTS

##### *Powers of Secretary of State*

**77 Secretary of State may make provision for vesting in landlord to bring into being tenant's right to purchase house**

- (1) Subject to subsection (2), where, but for the fact that a landlord is not the heritable proprietor of land on which houses have been let (or made available for letting) by it, one or more of its tenants would have a right to purchase under section 61, the Secretary of State may by order made by statutory instrument provide that the whole of the heritable proprietor's interest in the land shall vest in the landlord.
- (2) An order under this section shall only be made where—
  - (a) the heritable proprietor is a body mentioned in paragraph (a) of section 61(2); and
  - (b) the Secretary of State is of the opinion, after consultation with the heritable proprietor and with the landlord, that the order is necessary if the right to purchase is to come into being.
- (3) An order under this section shall have the same effect as a declaration under section 278 of the Town and Country Planning (Scotland) Act 1972 (general vesting declarations), except that, in relation to such an order, the enactments mentioned in Schedule 6 shall have effect subject to the modifications specified in that Schedule.
- (4) Compensation under the Land Compensation (Scotland) Act 1963, as applied by subsection (3) and Schedule 6 shall be assessed by reference to values current on the date the order under this section comes into force.
- (5) An order under this section shall have no effect until approved by resolution of each House of Parliament.

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- (6) An order under this section which would, apart from the provisions of this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument shall proceed in that House as if it were not such an instrument.
- (7) An order under this section may include such incidental, consequential or supplementary provisions as may appear to the Secretary of State to be necessary or expedient for the purposes of this Act.

## **78 Secretary of State may give directions to modify conditions of sale**

- (1) Where it appears to the Secretary of State that the inclusion of conditions of a particular kind in offers to sell would be unreasonable he may by direction require landlords generally, landlords of a particular description, or particular landlords not to include conditions of that kind (or not to include conditions of that kind unless modified in such manner as may be specified in the direction) in offers to sell served on or after a date so specified.
- (2) Where a condition's inclusion in an offer to sell—
  - (a) is in contravention of a direction under subsection (1) or
  - (b) in a case where the tenant has not by the date specified in such a direction served a relative notice of acceptance on the landlord, would have been in such contravention had the offer to sell been served on or after that date,
 the condition shall have no effect as regards the offer to sell.
- (3) A direction under subsection (1) may—
  - (a) make different provision in relation to different areas, cases or classes of case and may exclude certain areas, cases or classes of case; and
  - (b) be varied or withdrawn by a subsequent direction so given.
- (4) Section 211 of the Local Government (Scotland) Act 1973 (provision for default of local authority) shall apply as regards a failure to comply with a requirement in a direction under subsection (1) as that section applies as regards such failure as is mentioned in subsection (1) thereof.

## **79 Secretary of State may give financial and other assistance for tenants involved in proceedings**

- (1) Where, in relation to any proceedings, or prospective proceedings, to which this section applies, a tenant or purchaser is an actual or prospective party, the Secretary of State may on written application to him by the tenant or purchaser give financial or other assistance to the applicant, if the Secretary of State thinks fit to do so:

Provided that assistance under this section shall be given only where the Secretary of State considers—

- (a) that the case raises a question of principle and that it is in the public interest to give the applicant such assistance; or
  - (b) that there is some other special consideration.
- (2) This section applies to—
    - (a) any proceedings under sections 61 to 84 and section 216; and

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- (b) any proceedings to determine any question arising under or in connection with those sections other than a question as to market value for the purposes of section 62.
- (3) 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;
  - (d) arranging for representation by a solicitor or counsel;
  - (e) any other form of assistance which the Secretary of State may consider appropriate.
- (4) In so far as expenses are incurred by the Secretary of State in providing the applicant with assistance under this section, any sums recovered by virtue of an award of expenses, or of an agreement as to expenses, in the applicant's favour with respect to the matter in connection with which the assistance is given shall, subject to any charge or obligation for payment in priority to other debts under the Legal Aid (Scotland) Act 1986 and to any provision of that Act for payment of any sum into the Scottish Legal Aid Fund, be paid to the Secretary of State in priority to any other debts.
- (5) Any expenses incurred by the Secretary of State in providing assistance under this section shall be paid out of money provided by Parliament; and any sums received by the Secretary of State under subsection (4) shall be paid into the Consolidated Fund.

## **80 Secretary of State may make contributions towards the cost 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 of one landlord (the "first landlord") becomes, at his own request, the secure tenant of a different landlord (whether or not by means of an exchange whereby a secure tenant of the different landlord becomes the secure tenant of the first landlord); or
  - (b) each of two or more tenants of houses, one at least of which is let under a secure tenancy, becomes the tenant of the other house (or, as the case may be, of one of the other houses).
- (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.
- (3) In subsection (1) the reference to a "secure tenant" is to a tenant under a secure tenancy within the meaning of this Act or of the Housing Act 1985 or of Chapter II of Part II of the Housing (Northern Ireland) Order 1983.

## **81 Information from landlords in relation to Secretary of State's powers**

- (1) Without prejudice to section 199 of the Local Government (Scotland) Act 1973 (reports and returns by local authorities etc.), where it appears to the Secretary of State necessary or expedient, in relation to the exercise of his powers under sections 61 to 84 and section 216, 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

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- (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.