



# Housing Defects Act 1984

## CHAPTER 50

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# Housing Defects Act 1984

## 1984 CHAPTER 50

An Act to make provision in connection with defective dwellings disposed of by public sector authorities; and to provide for certain provisions in agreements between building societies to be disregarded for the purposes of the Restrictive Trade Practices Act 1976.

[31st July 1984]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Eligibility*

**1.**—(1) The Secretary of State may designate as a class any buildings each of which consists of or includes one or more dwellings if it appears to him that—

- Designation of defective dwellings.
- (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) above having become generally known, the value of some or all of the dwellings concerned has been substantially reduced.

(2) Any dwelling which a building in a class designated under this section consists of or includes is referred to in this Act as a “defective dwelling”; and in this Act in relation to such a dwelling—

- (a) “the qualifying defect” means that which, 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) above became generally known.

(3) A designation under this section shall describe the qualifying defect and specify—

- (a) the date on which the designation is to come into operation ;
- (b) the cut-off date (not being a date falling after the date specified under paragraph (a) above) ; and
- (c) the period within which persons may seek assistance under this Act in respect of the defective dwellings concerned.

(4) The Secretary of State may vary or revoke a designation under this section and may by a variation of the designation extend the period referred to in subsection (3)(c) above, whether or not it has expired ; but

- (a) no variation or revocation shall affect the operation of the provisions of this Act in relation to any dwelling if, before the variation or revocation comes into operation, it is a defective dwelling by virtue of the designation in question and application for assistance in respect of it has been made under section 3 of this Act ; and
- (b) no variation shall alter the cut-off date.

(5) Notice of a designation under this section and of the variation or revocation of such a designation shall—

- (a) if it relates to England or Wales, be published in the London Gazette, and
- (b) if it relates to Scotland, be published in the Edinburgh 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.

(7) A designation under this section may make different provision in relation to England, Scotland and Wales ; subject to that, no such designation shall describe a designated class by reference to the area in which the buildings concerned are situated.

**Eligibility  
for assistance.**

**2.—**(1) Subject to the following provisions of this Act, a person to whom this section applies is eligible for assistance in respect of a defective dwelling for the purposes of this Act if—

- (a) he holds a relevant interest in the dwelling, and
- (b) one of the following sets of conditions is satisfied.

(2) The first set of conditions is that—

- (a) there was a disposal by a public sector authority of a relevant interest in the dwelling 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 the cut-off date ;

and for the purposes of this subsection where a public sector authority hold an interest in a dwelling a disposal of that interest by or under any enactment is to be treated as a disposal by the authority.

(3) The second set of conditions is that—

- (a) a person to whom this section 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) on the date of that disposal that person was unaware 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) 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 within the meaning of the Rent (Agriculture) Act 1976 or a statutory tenant within the meaning of that Act. 1976 c. 80.

(5) No person is eligible for assistance in respect of a defective dwelling if the appropriate authority are of the opinion that—

- (a) work to the building that consists of or includes the dwelling has been carried out in order to deal with the qualifying defect, and
- (b) 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.

(6) In this Act, references to a disposal, except in paragraph 2 of Schedule 2, include references to a part disposal ; but, for the purposes of this Act, a disposal of an interest in a dwelling is a disposal of a relevant interest in the dwelling if, and only

if, on the disposal the person to whom it is made acquires a relevant interest in the dwelling.

(7) This section applies to—

- (a) an individual who is not a trustee,
- (b) trustees, if all the beneficiaries are individuals, and
- (c) personal representatives.

(8) In this Act—

- (a) “relevant interest” means the freehold or a long tenancy unless, in either case, it is subject to a long tenancy and, in Scotland, means the interest of the owner ;
- (b) references to an interest in a dwelling are references to an interest in land which is or includes the dwelling ;
- (c) in relation to a person holding an interest in a dwelling formed by the conversion of another dwelling, references to a previous disposal of an interest in the dwelling include a reference to a previous disposal on which an interest in land which included that part of the original dwelling in which his interest subsists was acquired ; and
- (d) references to a disposal of an interest for value are references to a disposal for money or money’s worth, whether or not representing full value for the interest disposed of.

(9) Subject to subsection (10) below, a tenancy is a long tenancy for the purposes of subsection (8) above if—

- (a) it is a tenancy granted for a term certain exceeding twenty-one 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) it is a tenancy granted in pursuance of Chapter I of Part I of the 1980 Act or Part I of the Housing and Building Control Act 1984 ; or
- (c) it is 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.

1984 c. 29.

(10) A tenancy is not a long tenancy for those purposes if—

- (a) it is an interest created by way of security and liable to termination by the exercise of a right of redemption or otherwise ; or
- (b) it is a secure tenancy (within the meaning of Chapter II of Part I of the 1980 Act).

3.—(1) Any person seeking assistance under this Act in respect of a defective dwelling shall make a written application to the appropriate authority within such period as is specified in the designation in question. Entitlement to reinstatement grant or repurchase.

(2) Subject to subsection (8) below and section 21(3) of this Act, an authority receiving such an application shall, if the applicant is eligible for assistance in respect of the defective dwelling, determine whether he is entitled to assistance by way of reinstatement grant or by way of repurchase.

(3) For the purposes of that determination the applicant is entitled to assistance by way of reinstatement grant if—

(a) the authority are satisfied that each of the conditions mentioned in subsection (4) below is met, and

(b) subsection (5) below does not apply in his case,

and in any other case he is entitled to assistance by way of repurchase.

(4) The conditions referred to in subsection (3) above are that—

(a) the defective dwelling is a house ;

(b) if the work required to reinstate the dwelling (together with any other work which the authority are satisfied the applicant proposes to carry out) were carried out—

(i) the dwelling would be likely to provide satisfactory housing accommodation for a period of at least thirty 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) 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 in pursuance of this Act 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 had been carried out ; and

(d) the amount of reinstatement grant that would be so payable would not be likely to exceed the amount which, on the acquisition of the applicant's interest in the dwelling in pursuance of this Act, would be the aggregate of the price payable for the acquisition and any amount to be reimbursed under section 11 of this Act.

(5) This subsection applies in the case of an applicant where the authority are satisfied on a claim made by him that it would

be unreasonable to expect him to secure or await the carrying out of the work required to reinstate the defective dwelling.

(6) The Secretary of State may by order amend subsection (4) above (whether as originally enacted or as previously amended under this subsection) so as to modify or omit any of the conditions there mentioned or to add or substitute for any of those conditions other conditions; and an order under this subsection—

- (a) may make different provision for different classes of case,
- (b) shall not affect the operation of this section in relation to applications made under this section before the order comes into force.

(7) For the purposes of this Act—

(a) 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, and

(b) where there is work falling within paragraph (a) above, the work required to reinstate the defective dwelling includes—

(i) any work required, in order to deal satisfactorily with the qualifying defect, to be done 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, and

(ii) any other work reasonably required in connection with work falling within paragraph (a) above or this paragraph.

(8) An appropriate authority shall not entertain an application under this section in respect of a defective dwelling if at any time (whether before or after the designation in question comes into operation) application for grant under Part VII of the Housing Act 1974 or Part I of the Housing (Scotland) Act 1974 has been made in respect of the dwelling and the relevant works include the whole or any part of the work required to reinstate the defective dwelling unless—

- (a) the application under that Part has been refused or has been withdrawn under subsection (9) below, or
- (b) the relevant works have been completed.

(9) A person who has applied for grant under Part VII of the Housing Act 1974 or Part I of the Housing (Scotland) Act 1974 in respect of any dwelling may, at any time when it is a



defective dwelling, withdraw his application, whether or not it has been approved, if the relevant works have not been begun and those works include the whole or any part of the work required to reinstate the defective dwelling.

In this subsection and subsection (8) above “the relevant works” has the same meaning as in Part VII of the Housing Act 1974 or, in Scotland, is to be construed as a reference to works of improvement or repair within the meaning of Part I of the Housing (Scotland) Act 1974. 1974 c. 44.  
1974 c. 45.

(10) Where a person who is eligible for assistance in respect of a defective dwelling dies or disposes of his interest in the dwelling to a person to whom section 2 of this Act applies (otherwise than on a disposal for value), this Act shall apply 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 the interest.

(11) This section applies to Scotland as if, in subsection (4)—

(a) for paragraph (b)(ii) there were substituted—

“ (ii) an individual acquiring ownership of the dwelling with vacant possession would be likely to be able to obtain a loan on the security of it on satisfactory terms from a lending institution ” ; and

(b) in paragraph (c) the words “ freehold of the ” were omitted.

4.—(1) An authority receiving an application which they are required to entertain under section 3 of this Act shall, as soon as it is reasonably practicable to do so, give notice in writing to the applicant stating whether or not in their opinion he is eligible for assistance in respect of the defective dwelling, and also— Notice of  
determination.

(a) if they are of the opinion that he is not so eligible, the reasons for their view ;

(b) if they are of the opinion that he is so eligible, informing him of his right to make a claim under section 3(5) of this Act.

(2) Where the authority are required to entertain an application from an applicant who is eligible for assistance, they shall, as soon as it is reasonably practicable to do so, give him notice in writing stating—

(a) the form of assistance to which he is entitled ; and

(b) if, on a claim by the applicant, the authority have satisfied themselves that section 3(5) of this Act does not apply in his case, the reasons for their view.

(3) A notice under subsection (2) above 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 the work 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 any associated arrangement ;
- (e) the condition required by section 5(3) of this Act (including the period within which the work is to be carried out) ; and
- (f) their estimate of the amount of grant that would be payable in respect of the dwelling in pursuance of this Act.

(4) A notice under subsection (2) above stating that the applicant is entitled to assistance by way of repurchase shall also state—

- (a) the grounds for the authority's determination ; and
- (b) the effect of the following provisions of this Act, that is—
  - section 6(1), (2) and (6) (except paragraph (b)), or
  - section 7(1), (2) and (7) (except paragraphs (b) to (d)), and
  - section 10(3) and (5) to (7).

(5) References in the following provisions of this Act to a person entitled to assistance by way of reinstatement grant or, as the case may be, by way of repurchase in respect of a defective dwelling are references to a person—

- (a) who is eligible for assistance in respect of the dwelling, and
- (b) on whom a notice under this section has been served stating that he is entitled to that form of assistance.

(6) In this Act, " associated arrangement " means any arrangement which—

- (a) is to be entered into in connection with the execution of the work required to reinstate a defective dwelling, and
- (b) is likely to contribute towards the dwelling being regarded as acceptable security by a lending institution.

### *Forms of assistance*

5.—(1) Where a person is entitled to assistance by way of **Reinstatement** grant in respect of a defective dwelling, the appropriate authority shall, subject to and in accordance with the provisions of this section and Schedule 1 to this Act, pay reinstatement grant to him in respect of the qualifying work and in respect of any associated arrangement.

(2) In this section and that Schedule “qualifying work”, in relation to a defective dwelling, means the work stated in a notice under section 4(2) of this Act or paragraph 3 of that Schedule to be, in the opinion of the authority, the work which is required to reinstate the dwelling.

(3) It shall be a condition of payment of the grant that the qualifying work is carried out to the satisfaction of the appropriate authority within the period specified in the notice under section 4(2) of this Act or within that period as extended; but payment of the grant shall not be subject to any other condition, however expressed.

(4) The period so specified shall be such reasonable period (not being less than twelve months) beginning with the service of the notice as the authority may determine.

(5) 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 that work (whether or not that period has expired).

(6) Part II of Schedule 1 to this Act has effect to require the repayment of grant in certain circumstances.

6.—(1) A person who is entitled to assistance by way of **Repurchase.** purchase in respect of a defective dwelling may, within the period of three months beginning with the service of the authority's notice under section 4(2) of this Act (or within that period as extended) request the authority in writing to notify him of the proposed terms and conditions for their acquisition of his interest so far as subsisting in the defective dwelling and any garage, outhouse, garden, yard and appurtenances occupied and used for the purposes of the dwelling or any part of it (in this section referred to as the “interest to be acquired”).

(2) An authority shall, within the period of three months beginning with the making of a request under subsection (1) above, serve on the person so entitled a notice in writing specifying the proposed terms and conditions and stating—

- (a) their opinion as to the value of the interest to be acquired, and
- (b) the effect of subsections (3) to (5) and (6) (except paragraph (a)) below.

(3) Subject to the following provisions of this Act, any agreement for the acquisition by the authority of the interest to be acquired shall contain such provisions as the parties have agreed or, in default of agreement, as have been determined in accordance with this Act to be reasonable.

(4) The authority shall, within three months of all the provisions to be included in the agreement being agreed or determined, draw up an agreement for execution by the parties embodying those provisions and serve a copy of the agreement on the person so entitled.

(5) The person so entitled may, at any time within the period of six months beginning with the service of the copy of that agreement (or within that period as extended), notify the authority in writing that he requires them to enter into an agreement embodying those provisions and the authority shall comply with the requirement.

(6) The authority shall, if there are reasonable grounds for doing so, by notice in writing served on the person so entitled, extend (or further extend)—

(a) the period within which under subsection (1) above he may make a request under that subsection ; and

(b) the period within which under subsection (5) above he may notify them of his requirement ;

whether or not the period in question has expired.

(7) An interest acquired by a housing authority in pursuance of this section shall be treated as acquired under section 96 of the Housing Act 1957.

1957 c. 56.

(8) Schedule 2 to this Act (except paragraph 5) has effect to supplement the provisions of this section.

(9) This section does not apply to Scotland.

**Repurchase in  
Scotland.**

**7.**—(1) A person who is entitled to assistance by way of repurchase in respect of a defective dwelling may, within the period of three months beginning with the service of the authority's notice under section 4(2) of this Act (or within that period as extended) request the authority in writing to notify him of the proposed terms and conditions for their acquisition of his interest so far as subsisting in the defective dwelling and any garage, outhouse, garden, yard and pertinents belonging to or usually enjoyed with the dwelling or any part of it (in this section referred to as the "interest to be acquired").

(2) An authority receiving a request under subsection (1) above shall within three months thereof serve on the person entitled to assistance by way of repurchase an offer in writing

to purchase specifying the proposed terms and conditions and stating their opinion as to the value of the interest to be acquired.

(3) Subject to the following provisions of this Act, any such offer relating to the acquisition by the authority of the interest to be acquired shall contain such terms and conditions as are reasonably necessary to enable the authority to receive a good and marketable title to it.

(4) Where an offer to purchase is served on the person so entitled and he wishes to sell but he considers that a term or condition contained in the offer to purchase is unreasonable, he may request the authority to strike out or vary the term or condition by serving on the authority, within one month after service of the offer to purchase, a notice in writing setting out his request; and if the authority agree they shall accordingly serve an amended offer to purchase within one month of service of the said notice setting out the request.

(5) A person so entitled who is aggrieved by the refusal of an authority to agree to strike out or vary a term or condition or by their failure timeously to serve an amended offer to purchase may within one month of the refusal or failure apply by way of summary application to the sheriff for determination of the matter; and the sheriff may, as he thinks fit, uphold the term or condition or strike it out or vary it and where his determination results in a variation of the terms or conditions of the offer to purchase he shall order the authority to serve on the person entitled an amended offer to purchase within one month thereafter.

(6) The person so entitled may at any time within the period of six months beginning with—

(a) the service of the offer to purchase by the authority; or

(b) the service of an amended offer to purchase under subsection (4) above; or

(c) the date of the determination of the sheriff;

serve a notice of acceptance on the authority.

(7) The authority shall, if there are reasonable grounds for doing so, by notice in writing served on the person so entitled, extend (or further extend) the period within which—

(a) under subsection (1) above he may request them to notify him of the terms and conditions proposed for their acquisition of the interest to be acquired;

(b) under subsection (4) above he may request them to strike out or vary the term or condition;

(c) under subsection (5) above he may apply to the sheriff for determination of a matter;

(d) under subsection (6) above he may serve a notice of acceptance on them ;

whether or not the period has expired.

1966 c. 49.

(8) An interest acquired by a housing authority in pursuance of this section shall be treated as acquired under section 142 of the Housing (Scotland) Act 1966.

(9) Part I of Schedule 2 to this Act (except paragraphs 4 and 6) has effect to supplement the provisions of this section.

(10) This section applies to Scotland only.

Purchase of certain land by authority possessing compulsory purchase powers.

8.—(1) In any case where—

(a) there was a disposal of an interest in a defective dwelling, being an interest held by a person (in this section referred to as the “owner”) who immediately before the time of disposal was eligible for assistance in respect of the dwelling,

(b) the disposal was made to an authority possessing compulsory purchase powers otherwise than in pursuance of section 6 or 7 of this Act,

(c) on the disposal, the authority acquired an interest in any affected land, 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 any part of it, and

(d) the amount paid as consideration for the disposal did not include any amount attributable to the owner’s right to apply for assistance in respect of the dwelling,

the owner is entitled, subject to the following provisions of this section, to be paid by the housing authority the amount (if any) by which ninety-five per cent. of the defect-free value exceeds the amount of compensation for the disposal.

(2) For the purposes of this section, the amount of compensation for the disposal is—

(a) the amount that would have been the proper amount of compensation for the disposal (having regard, where any relevant determination has been made by the Lands Tribunal or the Lands Tribunal for Scotland, to that determination), or

(b) if greater, the amount paid as the consideration for the disposal,

but excluding any amount payable for disturbance or for any other matter not directly based on the value of land ; and in this section the “defect-free value” means the amount that would have been the proper amount of compensation for the disposal

(excluding any amount so payable) if none of the defective dwellings to which the designation in question related had been affected by the qualifying defect.

(3) For the purposes of this section—

(a) it is to be assumed that the disposal occurred on a compulsory acquisition (in cases where it did not in fact do so),

(b) 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 then, for the purpose of determining the defect-free value, it is to be assumed that the compensation did not fall to be so assessed, and

(c) any amount which, apart from this paragraph, would be payable by a housing authority under subsection (1) above shall be reduced by the amount of any payment made in respect of the defective dwelling under section 30 or 60 of the Housing Act 1957 or section 30 of the Housing (Scotland) Act 1974. 1957 c. 56.  
1974 c. 45.

(4) A housing authority are not required to make a payment to any person under this section unless he makes a written application to them for the payment before the end of the period of two years beginning with the time of disposal.

(5) Where a housing authority refuse an application for a payment under this section on the grounds that the owner was not eligible for assistance in respect of the defective dwelling at the time of the disposal, they shall give to the applicant a notice in writing stating the reasons for their view.

(6) Any question arising under this section as to the amount of compensation for a disposal or defect-free value shall be determined by the district valuer if the owner or the housing authority so require by notice in writing served on the district valuer.

(7) Before making a determination in pursuance of subsection (6) above, 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.

(8) A person serving a notice on the district valuer under subsection (6) above shall serve notice in writing of that fact on the authority or, as the case may be, the owner.

(9) In this section—

“ authority possessing compulsory purchase powers ” has the same meaning as in the Land Compensation Act 1961 c. 33. 1961 or the Land Compensation (Scotland) Act 1963 ; 1963 c. 51.

“district valuer” has the same meaning as in paragraph 3(1) of Schedule 2 to this Act; and

“housing authority”, in relation to a defective dwelling, means the housing authority in whose area the dwelling is situated.

(10) In this section—

(a) references to the owner include a reference to his personal representatives; and

(b) the reference to appurtenances occupied with and used for the purposes of a dwelling or any part of it is, in Scotland, a reference to pertinents belonging to or usually enjoyed with the dwelling or any part of it.

Rights of  
pre-emption  
etc.

**9.**—(1) This section applies in any case where (apart from this section)—

(a) a person (in this section referred to as “the owner”) is entitled to assistance by way of repurchase in respect of a defective dwelling, and

(b) there is a covenant relating to his interest in the defective dwelling whereby—

(i) before disposing of the interest he must offer to dispose of it to a public sector authority, or

(ii) where, in the case of a leasehold interest, he may require a public sector authority being his landlord to accept a surrender of the lease, he is otherwise prohibited from disposing of it.

(2) If the public sector authority concerned are the appropriate authority, the covenant shall be disregarded for all purposes in relation to anything done by the owner in pursuance of the rights conferred on him by section 6 of and Schedule 2 to this Act.

(3) If the public sector authority concerned are not the appropriate authority, then—

(a) so long as the condition mentioned in subsection (1)(b) above applies, the owner is not to be treated for the purposes of section 6 of this Act as entitled to assistance by way of repurchase, and

(b) if the owner disposes of his interest to the public sector authority in pursuance of the covenant or lease, as the case may be, and the interest acquired by that authority on the disposal subsists only in the defective dwelling and any garage, outhouse, garden, yard and appurtenances occupied with and used for the purposes of the dwelling or any part of it, the owner is entitled, subject to subsection (6) below, to be paid by the



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, the defect-free value is 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; and in subsection (3)(b) above and this subsection, "the consideration for the disposal" means, where the consideration for the disposal is required to be reduced by any amount under section 19(7) of the 1980 Act or any provision to the like effect, the aggregate of the consideration for the disposal (after that reduction) and that amount.

(5) If the public sector authority concerned are not the appropriate authority and the condition in subsection (3)(b) above is satisfied, section 10 of this Act shall apply in the case of the owner—

(a) as if the public sector authority were the appropriate authority and the interest acquired had been acquired by the authority in pursuance of section 6 of this Act,

(b) as if the reference in subsection (7) to the service of a copy agreement were a reference to the time of disposal, and

(c) where the public sector authority are not one of the bodies mentioned in section 26(7) of this Act, with the modifications set out in section 26(8) of this Act.

(6) A housing authority are not required to make a payment to any person under this section unless he makes a written application to them for the payment before the end of the period of two years beginning with the time of disposal.

(7) Where a housing authority refuse an application for a payment under this section they shall give to the owner a notice in writing stating their reasons for doing so.

(8) Any question arising under this section as to defect-free value shall be determined by the district valuer if the owner or the housing authority so require by notice in writing served on the district valuer.

(9) Before making a determination in pursuance of subsection (8) above, 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.

(10) A person serving a notice on the district valuer under subsection (8) above shall serve notice in writing of that fact on the authority or, as the case may be, the owner.

(11) In this section—

“ district valuer ” has the same meaning as in paragraph 3(1) of Schedule 2 to this Act ;

“ housing authority ”, in relation to a defective dwelling, means the housing authority in whose area the dwelling is situated ;

and references to the owner include a reference to his personal representatives.

(12) This section applies to Scotland as if—

(a) the references to a covenant were references to a condition in the title to the defective dwelling ;

(b) in subsections (2), (3)(a) and (5)(a), for “ section 6 ” there were substituted “ section 7 ” ;

(c) in subsection (3)(b), for “ appurtenances occupied with and used for the purposes of the dwelling or any part of it ” there were substituted “ pertinents belonging to or usually enjoyed with the dwelling or any part of it ” ; and

(d) in subsection (5)(b), for “ a copy agreement ” there were substituted “ an offer to purchase ”.

**10.**—(1) This section applies where an appropriate authority acquire an interest in a defective dwelling in pursuance of section 6 or 7 of this Act and the land in which the interest subsists is or includes a dwelling-house occupied as a separate dwelling (in this section referred to as a “ relevant dwelling-house ”) ; and in this section—

(a) “ qualifying period ” means the period beginning with the making of an application under section 3 of this Act in respect of the defective dwelling and ending immediately before the completion of the authority’s acquisition ; and

(b) “ occupier ”, in relation to a dwelling-house, means a person who occupies the dwelling-house as his only or principal home or (in relation to a person who is a statutory tenant of the dwelling-house at the end of the qualifying period) as his residence.

(2) In this section “ dwelling-house ” and “ secure tenancy ” have the same meaning as in Chapter II of Part I of the 1980 Act or (as the case may be) Part II of the Scottish Act of 1980 ; and references to the grant of a secure tenancy are references to the grant of a tenancy which would be a secure tenancy assuming that the tenant under the tenancy occupies the dwelling-house concerned as his only or principal home.

(3) Where an individual is an occupier of a relevant dwelling-house throughout the qualifying period and either—

- (a) he is a person entitled to assistance by way of repurchase in respect of the defective dwelling, or
- (b) the persons so entitled are, in relation to the interest concerned, his trustees,

the appropriate authority shall, subject to the following provisions of this section, grant him a secure tenancy on the completion of their acquisition of the interest concerned.

(4) In any case where—

- (a) an individual who is a statutory tenant of a relevant dwelling-house at the end of the qualifying period has been an occupier of the dwelling-house throughout that period,
- (b) the statutory tenancy is not an excepted tenancy, and
- (c) if the statutory tenancy were a contractual tenancy, the interest of the person entitled to assistance would be subject to the tenancy at the end of the qualifying period,

the appropriate authority shall, subject to the following provisions of this section, grant the individual a secure tenancy on the completion of their acquisition of the interest concerned.

(5) If two or more persons qualify under subsection (3) or (4) above for the grant of a tenancy in respect of the same relevant dwelling-house, the authority shall, subject to the following provisions of this section, 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.

(6) The dwelling-house let under the tenancy to be granted to any person under this section shall, except where the circumstances fall within paragraph 2 of Schedule 3 to this Act, be the dwelling-house of which he is the occupier at the end of the qualifying period; and where the circumstances fall within that paragraph shall be another dwelling-house which, so far as is reasonably practicable in the case of that authority, affords accommodation which meets the requirements for suitability set out in paragraph 3 of that Schedule.

(7) An authority shall not be required to grant a tenancy to any person under this section unless that person requests them to do so in writing before the service on the person entitled to assistance of a copy of the agreement drawn up under section 6(4) of or paragraph 3(4) of Schedule 2 to this Act or, as the case may be, an offer to purchase under section 7(2) of this Act.

(8) An authority receiving a request under subsection (7) above shall, as soon as it is reasonably practicable to do so, give notice in writing to the person making the request stating—

(a) whether or not in their opinion the circumstances of his case fall within paragraph 2 of Schedule 3 to this Act, and

(b) if their opinion is that they do—

(i) which of the Cases specified in that paragraph is applicable to those circumstances, and

(ii) the effect of subsection (6) above and Schedule 3 to this Act.

(9) If at any time after the service of a notice under section 4(2) of this Act it appears to the appropriate authority that a person may be entitled to request them to grant him a secure tenancy under subsection (4) above, they shall forthwith give him notice in writing of that fact.

(10) Where at the end of the qualifying period the interest of the person so entitled is subject to any tenancy of a relevant dwelling-house, the tenancy shall not on or after the acquisition become a secure tenancy unless—

(a) throughout the qualifying period it was a protected tenancy, and

(b) it is not an excepted tenancy.

(11) A tenancy or statutory tenancy is an excepted tenancy for the purposes of this section if notice has been given in respect of the tenancy or (in the case of a statutory tenancy) in respect of the original tenancy—

(a) in accordance with any of Cases 11 to 11C and 12 to 17 in Schedule 3 to the 1971 Act (notice that possession might be recovered under that Case) ;

(b) in accordance with any of Cases 11 to 18 and 20 in Schedule 15 to the 1977 Act (notice to the same effect) ;  
or

(c) under section 52(1)(b) of the 1980 Act (notice that a tenancy is to be a protected shorthold tenancy) or section 34(1)(d) of the Scottish Act of 1980 (notice that a tenancy is to be a short tenancy).

(12) In this section the expressions mentioned in column 1 below are to be construed in accordance with the appropriate enactment listed against them in column 2 :

<i>Expression</i>	<i>Enactment</i>
“ Protected tenancy ”	Section 1 of the 1971 Act or section 1 of the 1977 Act.
“ Statutory tenant ” and “ statutory tenancy ”	Section 3 of the 1971 Act or section 2 of the 1977 Act.

**11.**—(1) A person whose interest in a defective dwelling is acquired by the appropriate authority in pursuance of section 6 or 7 of this Act is entitled to be reimbursed by them the proper amount of —

Expenses incidental to applications for assistance.

- (a) any expenses in respect of legal services provided in connection with the authority's acquisition, and
- (b) any 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 section 6(2) or an offer to purchase under section 7(2) of this Act.

(2) Any agreement between any person and the appropriate authority shall be 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 Act.

### *Local schemes*

**12.**—(1) A housing authority may designate as a class any buildings in their area each of which consists of or includes one or more dwellings if it appears to them that—

Designation under local schemes.

- (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) above having become generally known, the value of some or all of the dwellings concerned has been substantially reduced.

(2) Subsection (1) above does not apply to any building in a class designated under section 1 of this Act; 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) Any dwelling which a building in a class designated under this section consists of or includes is referred to in this Act as a "defective dwelling"; and in this Act, in relation to such a dwelling—

- (a) "the qualifying defect" means that which, 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) above became generally known.

(4) A designation under this section shall describe the qualifying defect and specify—

- (a) the date on which the designation is to come into operation ;
- (b) the cut-off date (not being a date falling after the date specified under paragraph (a) above) ; and
- (c) the period within which persons may seek assistance under this Act in respect of the defective dwellings concerned.

(5) A designation under this section is to be made, and may be varied or revoked, by resolution of the authority and the authority may by a variation of the designation extend the period referred to in subsection (4)(c) above, whether or not it has expired ; but

- (a) no variation or revocation shall affect the operation of the provisions of this Act in relation to any dwelling if, before the variation or revocation comes into operation, it is a defective dwelling by virtue of the designation in question and application for assistance in respect of it has been made under section 3 of this Act ; and
- (b) no variation shall alter the cut-off date.

(6) Where a housing authority have passed a resolution under this section—

- (a) 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 ; and
- (b) the designation, variation or revocation shall not come into operation before the expiry of the period of two months beginning with the receipt of the notice.

(7) A designation under this section or its variation or revocation shall not come into operation if, within the period specified in subsection (6)(b) above, the Secretary of State serves a notice in writing in that behalf on the authority.

(8) 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 housing authority concerned.

(9) No designation under this section shall describe a designated class by reference to the area (not being the area of the authority concerned) in which the buildings concerned are situated ; subject to that, a designated class may be so described that, within the authority's area, there is only one building in the class.

#### *Miscellaneous and Supplemental*

Dwellings included in more than one designation.

**13.**—(1) For the purposes of this Act, where a person is already eligible for assistance in respect of a defective dwelling at a time when a designation under section 1 or 12 of this Act

comes into operation, being a designation of a class within which the building that consists of or includes the dwelling falls, that designation is to be disregarded in his case if either—

- (a) he would not be eligible for assistance in respect of the defective dwelling if it were the only designation, or
- (b) he is entitled to assistance by way of repurchase in respect of the defective dwelling.

(2) Where a person is eligible for assistance in respect of a defective dwelling and the building that consists of or includes the dwelling falls within two or more designations under section 1 or 12 of this Act, being designations which are not required to be disregarded in his case (in this subsection referred to as “applicable designations”), then, in relation to the dwelling, this Act (except sections 1 and 12) shall have effect as if—

- (a) references to the designation, or the provision, by virtue of which it is a defective dwelling were references to any applicable designation or, as the case may be, to any provision under which an applicable designation was made,
- (b) references to the qualifying defect were references to any qualifying defect described in any applicable designation,
- (c) references to the period within which persons may seek assistance under this Act were references to any period specified for that purpose in any applicable designation, and
- (d) the reference in paragraph 1(1)(c) of Schedule 1 to this Act to the maximum amount permitted to be taken into account for the purposes of that paragraph were a reference to the sum of those maximum amounts for each applicable designation.

(3) In any case where—

- (a) notice has been given to a person at any time under section 4(1) of this Act stating that he is, in the opinion of the appropriate authority, eligible for assistance in respect of a defective dwelling, and
- (b) the building that consists of or includes the dwelling falls within a class designated under section 1 or 12 of this Act by a designation coming into operation after that time,

the appropriate authority shall, as soon after that time as it is reasonably practicable to do so, give him notice in writing stating whether or not in their opinion the designation referred to in paragraph (b) above is to be disregarded in his case; and if, in their opinion, it is to be disregarded, the reasons for their view.

(4) Subsections (5) to (8) below apply in any case where—

- (a) a person is entitled to assistance by way of reinstatement grant in respect of a defective dwelling at a time when a designation under section 1 or 12 of this Act comes into operation, being a designation of a class within which the building that consists of or includes the dwelling falls (in this and the following subsections referred to as the “later designation”), and
- (b) the later designation is not required to be disregarded in his case.

(5) Where it becomes apparent to the appropriate authority that this subsection applies in the case of any person, they shall forthwith give him notice in writing—

- (a) stating the effect of subsection (2) above and subsection (6) below and of the further designation, and
- (b) informing him that he has the right to make a claim under section 3(5) of this Act.

(6) Where it becomes apparent to the authority that this subsection applies in the case of any person, they shall as soon as it is reasonably practicable to do so—

- (a) make a further determination under section 3(2) of this Act (taking account of the later designation), and
- (b) give a further notice under section 4(2) of this Act in place of the previous notice,

and where the determination is that he is entitled to assistance by way of repurchase, the notice shall state the effect of subsections (7) and (8) below.

(7) Where a further notice under section 4(2) of this Act stating that a person is entitled to assistance by way of repurchase is given in place of a previous notice and either—

- (a) he satisfies the authority that he has, before the further notice is received, entered into a contract with another to provide services or materials for the purpose of executing any of the work stated in the previous notice or in a notice under paragraph 3 of Schedule 1 to this Act (in this subsection and subsection (8) below referred to as the “relevant work”), or
- (b) any of the relevant work has been carried out before the further notice is received and has been carried out to the satisfaction of the appropriate authority,

then, notwithstanding anything in subsection (6) above, the previous notice and any notice under paragraph 3 of that Schedule given before the further notice is received shall continue to have effect for the purposes of section 5 of and Schedule



1 to this Act in relation to the relevant work or, in a case falling within paragraph (b) above, in relation to so much of the relevant work as has been carried out as mentioned in that paragraph; and the authority shall, subject to subsection (8) below, pay reinstatement grant accordingly.

(8) In any case where—

- (a) the relevant work is not completed but part of that work is carried out to the satisfaction of the appropriate authority,
- (b) the notice in question continues to have effect in relation to that part of the work by virtue of subsection (7) above, and
- (c) that part of the work is carried out within the period stated in the notice in question,

paragraph 5 of Schedule 1 to this Act shall not apply in relation to reinstatement grant paid in respect of that part of the work and the amount payable in respect of that part of the work shall be an amount equal to the maximum instalment of grant that would have been payable under paragraph 4 of that Schedule in respect of that part of the work.

**14.—(1)** A housing authority shall, within the period of three **Notices.** months beginning with the coming into operation of a designation under section 1 or 12 of this Act or a variation of such a designation, publish in a newspaper circulating in their area 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 area, unless they are of the opinion that—

- (a) none of the dwellings concerned are so situated, or
- (b) in respect of all of the dwellings concerned that are so situated, no person is likely to be eligible for assistance.

(2) If at any time it becomes apparent to a housing authority that a person is likely to be eligible for assistance in respect of a defective dwelling within their area, they shall forthwith take such steps as are reasonably practicable to inform him of the fact that assistance is available.

(3) 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 disposal—

- (a) specifying the qualifying defect, and
- (b) stating that he will not be eligible for assistance under this Act in respect of the dwelling.

(4) A public sector authority shall, before they convey a relevant interest in a defective dwelling in pursuance of a contract to any person on whom a notice under subsection (3) above 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 Act, and
- (c) stating the effect of subsection (5) below.

(5) A person on whom a notice under subsection (4) above is served—

- (a) shall have the right to withdraw from the transaction and may, within the period of six months beginning with the service of that notice on him, exercise that right by notifying the authority in writing of his withdrawal, whereupon the parties to the contract shall be discharged from any obligations in connection with it and any deposit paid shall be repaid ; and
- (b) shall not, in any event, be obliged to complete the conveyance before the expiry of the period referred to in paragraph (a) above.

(6) Where a public sector authority are required to serve a notice under section 5(1) of the 1980 Act (landlord's response to notice claiming exercise of right to buy) in respect of a defective dwelling, the notice under subsection (3) above is to be served with that notice.

(7) The notice under subsection (3) above (where it has not been served in accordance with subsection (6) above) or subsection (4) above is to be served at the earliest date at which it is reasonably practicable to do so.

(8) This section applies to Scotland as if—

- (a) in subsection (4), for “ a contract ” there were substituted “ completed missives ” ;
- (b) in subsection (5), the words from “ whereupon the parties ” to “ shall be repaid ” were omitted ; and
- (c) in subsection (6), for “ section 5(1) of the 1980 Act ” there were substituted “ section 2(2), 3, 3A and 3B of the Scottish Act of 1980 ”.

Service of  
notices.

**15.—**(1) Any notice or other document under this Act may be given to or served on any person and any application or written request under this Act may be made to any 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 or clerk 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 1978 c. 30. section, the proper address of any person shall be—

(a) in the case of a body corporate or its secretary or clerk, the address of the principal office of the body,

(b) in any other case, his last known address,

and also, where an additional address for service has been specified by that person in a notice under section 26(3) of this Act, that address.

**16.**—(1) Where a relevant interest in a defective dwelling has been disposed of by a public sector authority, then (without prejudice to any of their other powers) the appropriate authority may before the end of the period within which a person may seek assistance under this Act in respect of the dwelling enter into an agreement with any person holding an interest in the dwelling or any person who is a statutory tenant of it to execute at his expense any of the work required to reinstate the dwelling. Reinstatement of defective dwelling by appropriate authority.

(2) For the purposes of subsection (1) above, a disposal by or under any enactment of an interest in a dwelling held by a public sector authority is to be treated as a disposal of that interest by the authority.

(3) In this section “statutory tenant” is to be construed in accordance with section 2 of the 1977 Act or, as the case may be, section 3 of the 1971 Act.

**17.**—(1) Subject to sections 1(6), 8(6), 9(8), and 12(8) of this Act and paragraph 3 of Schedule 2 to this Act, a county court has jurisdiction to determine any question arising under this Act (except section 28) and to entertain any proceedings brought in connection with the performance or discharge of any obligations so arising, including proceedings for the recovery of damages or compensation in the event of the obligations not being performed. Jurisdiction of county court and rules of procedure.

(2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any question so arising notwithstanding that no other relief is sought than a declaration.

(3) Where an authority required by section 5(5) or 6(6) of this Act to extend or further extend any period fail 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) 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 any registrar of a county court of any jurisdiction exercisable under this section.

(6) This section does not apply to Scotland.

Jurisdiction of  
sheriff in  
Scotland.

**18.**—(1) Subject to sections 1(6), 8(6), 9(8) and 12(8) of this Act and paragraph 3 of Schedule 2 to this Act, a sheriff of the sheriff court district within which the defective dwelling is situated has jurisdiction to determine any question arising under this Act (except section 28) and to entertain any proceedings brought in connection with the performance or discharge of any obligations so arising, including proceedings for the recovery of damages or compensation in the event of the obligations not being performed.

(2) Where an authority required by section 5(5) or 7(7) of this Act to extend or further extend any period fail to do so, the sheriff may extend or further extend that period until such date as he may specify.

(3) This section applies only to Scotland.

Secretary of  
State's  
contribution  
to  
expenditure.

**19.**—(1) The Secretary of State may if he thinks fit in any case contribute towards the expense incurred by a housing authority—

(a) in giving assistance in respect of a defective dwelling by way of reinstatement grant under section 5 of this Act, or, where it is a defective dwelling by virtue of section 1 of this Act, by way of repurchase under section 6 or 7 of this Act, or

(b) in making any payment under section 8 or 9 of this Act.

(2) His contribution shall take the form of an annual payment, for a period of twenty years beginning with the financial year in which the work in respect of which the grant was payable was completed or in which the acquisition of the interest concerned was completed or in which the payment under section 8 or 9 of this Act was made, as the case may be, of a sum equal to the relevant percentage of the annual loan charges referable to the amount of the expense incurred.

(3) In subsection (2) above, "the relevant percentage" means—

- (a) in the case of reinstatement grant, 90 per cent.,
- (b) in the case of repurchase or of any payment under section 8 or 9 of this Act, being a case in which there has at any time been a disposal of a relevant interest in the defective dwelling concerned by the housing authority or any authority being their predecessor, 75 per cent., and
- (c) in any other case of repurchase or payment under that section, 100 per cent.,

or such other percentage as (in any of those cases) the Secretary of State may with the consent of the Treasury by order specify in respect of assistance, or payments, or any class of assistance or payments specified in the order, given or made in pursuance of applications made after such date as may be so specified.

(4) An order under subsection (3) above—

- (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 not be made unless a draft of the order has been laid before and approved by a resolution of the Commons House of Parliament, and
- (c) shall not specify a date earlier than the date of the laying of the draft.

(5) The amount to be taken for the purposes of this section as the amount of the expense incurred is—

- (a) in the case of reinstatement grant, the amount of the grant, and
- (b) in the case of repurchase—
  - (i) the price paid for the acquisition of the interest concerned, together with any amount reimbursed under section 11 of this Act, less
  - (ii) the value of that interest at "the relevant time" (within the meaning of Schedule 2 to this Act) ascertained in accordance with paragraph 2 of that Schedule (but without the assumption required by sub-paragraph (2)(a) of that paragraph), and
- (c) in the case of any payment under section 8 or 9 of this Act, the amount of the payment.

(6) For the purposes of subsection (2) above, 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 housing authority for the payment

of interest on, and the repayment of, a loan of that amount repayable over a period of twenty years.

(7) Any payment by the Secretary of State under this section shall be payable at such time, 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.

(8) Without prejudice to the generality of subsection (7) above, the making of any such payment shall be subject to the making of a claim for the payment in such form, and containing such particulars, as the Secretary of State may from time to time determine.

Amendment  
of Tenants'  
Rights, Etc.  
(Scotland) Act  
1980.  
1980 c.52.

20. After section 9 of the Tenants' Rights, Etc. (Scotland) Act 1980 there is added—

“Application  
of Part I  
when  
dwelling-  
house is  
repurchased  
as defective.

9A. In any case where—

(a) a person is granted a secure tenancy in pursuance of section 10(3) of the Housing Defects Act 1984 (grant of secure tenancy on acquisition of defective dwelling), and

(b) that person would not otherwise have the right to purchase under this Part of this Act,

the provisions of this Part of this Act shall apply to him subject to the following modifications of section 1—

(i) in subsection (3), the words from ‘and, immediately prior to the relevant date’ to the end of the subsection shall not apply; and

(ii) in subsection (5)(b)—

(A) for the words ‘32 per cent.’ there shall be substituted the words ‘30 per cent.’; and

(B) the words ‘beyond 2’ shall not apply”.

Modification  
of Act in  
relation to  
shared  
ownership  
leases.

21.—(1) The Secretary of State may by regulations provide for this Act to have effect, in its application to any case in which a person is eligible for assistance in respect of a defective dwelling and his interest in the dwelling is either—

(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) Regulations under this section may (without prejudice to the generality of subsection (1) above)—

(a) require an authority receiving an application under section 3 of this Act by a person who—

(i) is eligible for assistance in respect of a defective dwelling, and

(ii) holds an interest falling within paragraph (a) or (b) of subsection (1) above,

to determine under that section that he is entitled to assistance by way of repurchase, and

(b) make any provision that may be made by an order under section 3(6) of this Act.

(3) An authority shall not entertain an application under section 3 of this Act by a person whose interest in the defective dwelling concerned falls within paragraph (a) or (b) of subsection (1) above 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 within the meaning of Part I of the Housing and Building Control Act 1984, 1984 c. 29.

(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 paragraph 3 of Schedule 3 to that Act,

(c) a lease of a description specified by the regulations, or

(d) a lease determined, or falling within a class determined, by the Secretary of State to be a shared ownership lease ;

but where a lease becomes a shared ownership lease by virtue of regulations under this section or a determination under paragraph (d) above, that shall not affect the operation of the provisions of this Act in relation to a person who is eligible for assistance in respect of a defective dwelling if application for assistance in respect of the dwelling has previously been made by him under section 3 of this Act.

(5) Regulations under this section may make different provision for England and Wales and for different descriptions of shared ownership lease.

(6) This section does not apply to Scotland.

Application of  
Act in relation  
to mortgagees.

1925 c. 20.

**22.**—(1) The Secretary of State may by regulations make provision for the purpose of conferring rights and obligations on any 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 conferred on a mortgagee by regulations under this section are—

- (a) rights corresponding to those conferred by this Act on a person holding a relevant interest in the defective dwelling,
- (b) the right to require the appropriate 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 appropriate authority, the right by deed to vest the dwelling in themselves,

and the rights that may be so conferred may be conferred in place of any rights conferred on any other person by this Act.

(3) Regulations under this section may provide that, where the conditions in subsection (1)(a) and (b) above are or have been satisfied, this Act, 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.

1984 c. 29.

(4) Where a defective dwelling is vested in a mortgagee in pursuance of regulations under this section or in pursuance of sections 112 and 113 of the 1980 Act or section 19 of and Schedule 5 to the Housing and Building Control Act 1984 (vesting of mortgaged dwelling-house in local authority etc.), 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 are 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
- (b) may make incidental and consequential provision.

(6) In this section “ mortgagee ” and “ mortgagor ” have the same meaning as in the Law of Property Act 1925.

(7) This section does not apply to Scotland.



**23.—**(1) The Secretary of State may by regulations make provision for the purpose of conferring rights and obligations on any person who has granted a loan on the security of a defective dwelling where—

Application of Act in relation to lenders on security of defective dwelling in Scotland.

- (a) a power of sale is exercisable by the lender, and
- (b) the borrower is eligible for assistance in respect of the defective dwelling.

(2) The rights that may be conferred on a lender by regulations under this section are—

- (a) rights corresponding to those conferred by this Act on a person holding a relevant interest in the defective dwelling, and
- (b) the right to require the appropriate 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 the rights that may be so conferred may be conferred in place of any rights conferred on any other person by this Act.

(3) Regulations under this section may provide that, where the conditions in subsection (1)(a) and (b) above are or have been satisfied, this Act, the power of sale and any enactment relating to the power of sale in question shall have effect subject to such modifications as may be specified in the regulations.

(4) Regulations under this section—

- (a) may make different provision for different cases, and
- (b) may make incidental and consequential provision.

(5) This section applies to Scotland only.

**24.—**(1) Any power of the Secretary of State to make an order or regulations under any provision of this Act shall be exercisable by statutory instrument.

Regulations, rules and orders.

(2) No order shall be made under section 3(6) of this Act unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

(3) The power of the Lord Chancellor to make rules under section 17 of this Act shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) A statutory instrument containing regulations under sections 21, 22 or 23 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) A statutory instrument containing an order under paragraph 1 or 2 of Schedule 1 to this Act shall be subject to

annulment in pursuance of a resolution of the Commons House of Parliament.

Expenses.

**25.** There shall be paid out of money provided by Parliament any expenses incurred by the Secretary of State under this Act and any increase attributable to this Act in the sums payable out of money so provided under any other Act.

Appropriate authority.

**26.—(1)** In this Act, subject to the following provisions of this section, “appropriate authority” in relation to a defective dwelling means the housing authority in whose area the dwelling is situated.

(2) Where the appropriate authority give a notice under section 4(2) of this Act to any person stating that he is entitled to assistance by way of repurchase in respect of a defective dwelling and they are of the opinion that—

(a) there has at any time been a disposal of a relevant interest in the dwelling by a body mentioned in column 1 of the following Table or any predecessor there mentioned (and there has been no disposal falling within this paragraph since that time), and

(b) where any conditions are mentioned in column 2 of the entry for that body, those conditions are satisfied at the time at which that notice is served,

they shall forthwith give to the body a notice in writing (together with a copy of the notice referred to above) stating that the body may acquire in accordance with this Act the interest of the person entitled to assistance:

TABLE

<i>Public sector authority</i>	<i>Conditions</i>
A housing association being a public sector authority, and a housing association being its predecessor.	None.
The Scottish Special Housing Association.	None.
A development corporation established by an order made or having effect as if made under the New Towns Act 1981 or the New Towns (Scotland) Act 1968.	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.
The Development Board for Rural Wales.	None.

1981 c. 64.  
1968 c. 16.

*Public sector authority*

*Conditions*

A housing authority and any authority being their predecessor.

The housing authority provide housing accommodation in the vicinity of the defective dwelling and that dwelling may conveniently be managed with that accommodation.

Any other public sector authority specified by the Secretary of State by order and any predecessor so specified of the authority.

Any conditions specified by the order.

(3) The body concerned may, within the period of four weeks beginning with the service of the appropriate authority's notice under subsection (2) above, give them notice in writing—

- (a) stating that the body wishes to acquire the interest, and
- (b) specifying the address of the principal office of the body and any other address that may also be used as an address for service.

(4) Where the appropriate authority (in the following provisions referred to as the "original authority") receive a notice under subsection (3) above, they shall forthwith give to the person entitled to assistance notice in writing (in those provisions referred to as a "transfer notice") of—

- (a) the contents of the notice under subsection (3) above, and
- (b) the effect of subsections (5) and (6) below.

(5) The body concerned shall, at any time after the transfer notice is given, be treated as being the appropriate authority (in place of the original authority) for the purposes of anything done or falling to be done under this Act by or in relation to the appropriate authority.

(6) Where a transfer notice has been given in respect of an interest—

- (a) a request under section 6(1) or 7(1) of this Act in respect of the interest may be made either to the original authority or to the appropriate authority, and
- (b) such a request made to the original authority (whether before or after the transfer notice is given) shall be forwarded by them to the appropriate authority.

(7) Where, apart from subsection (8) below, the appropriate authority acquiring an interest in a defective dwelling might be

required under section 10 of this Act to grant a secure tenancy (within the meaning of that section) to any person, but—

- (a) in relation to England and Wales, the authority are not one of the following bodies, that is, the bodies mentioned in section 28(4) of the 1980 Act or a housing association falling within section 15(3) of the 1977 Act or
- (b) in relation to Scotland, the authority are not one of the bodies mentioned in section 10(2) of the Scottish Act of 1980,

section 10 of this Act shall have effect with the following modifications.

(8) Those modifications are—

- (a) in subsection (3), for the words “ a secure ” there is substituted “ or arrange for him to be granted an appropriate ”,
- (b) at the end of that subsection there is inserted—
  - “ For the purposes of this subsection, a tenancy is an appropriate tenancy if it is either—
  - (i) a secure tenancy, or
  - (ii) 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 1977 Act or, as the case may be, Part II of Schedule 3 to the 1971 Act (cases where court must order possession) ”,
- (c) subsections (4), (9), (10) and (11) shall not apply,
- (d) in subsection (5), after the words “ grant the tenancy ” there is inserted “ or arrange for it to be granted ”,
- (e) in subsection (6), after the word “ section ” there is inserted “ or under any arrangements made for the purposes of subsection (3) above ”, and
- (f) in subsection (7), after the word “ grant ” there is inserted “ or arrange for the grant of ”.

**General interpretation.**

**27.—(1) In this Act—**

- “ associated arrangement ” has the meaning given by section 4(6) of this Act ;
- “ cut-off date ” is to be construed in accordance with section 1(2)(b) or, as the case may be, 12(3)(b) of this Act ;
- “ defective dwelling ” is to be construed in accordance with section 1(2) or, as the case may be, 12(3) of this Act ;
- “ housing association ” has the same meaning as in the Housing Act 1957 or the Housing (Scotland) Act 1966 ;

- “housing authority” means a district council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly or, in Scotland, an islands or district council ;
- “lending institution” means any building society within the meaning of the Building Societies Act 1962 and 1962 c. 37. any of the bodies specified in paragraphs 6, 7 and 8 of the Schedule to the Home Purchase Assistance and 1978 c. 27. Housing Corporation Guarantee Act 1978 ;
- “person entitled to assistance by way of reinstatement grant” and “person entitled to assistance by way of repurchase” are to be construed in accordance with section 4(5) of this Act ;
- “public sector authority” is to be construed in accordance with Schedule 4 to this Act ;
- “qualifying defect” is to be construed (subject to section 13(2) of this Act) in accordance with section 1(2)(a) or, as the case may be, 12(3)(a) of this Act ;
- “relevant interest” has the meaning given by section 2(8) of this Act ;
- “the 1971 Act” means the Rent (Scotland) Act 1971 ; 1971 c. 28.
- “the 1977 Act” means the Rent Act 1977 ; 1977 c. 42.
- “the 1980 Act” means the Housing Act 1980 ; 1980 c. 51.
- “the Scottish Act of 1980” means the Tenants’ Rights, Etc. (Scotland) Act 1980 ; and 1980 c. 52.
- “work required to reinstate a defective dwelling” is to be construed in accordance with section 3(7) of this Act.

(2) In this Act (except sections 10 and 28 and paragraph 4 of Schedule 2) “dwelling” means any house, flat or other unit designed or adapted for living in ; and for the purposes of this Act a building so designed or adapted is a house if it is a structure reasonably so called, so that—

- (a) where a building is divided into units so designed or adapted and either it is so divided horizontally or a material part of any unit lies above or below any other unit, those units are not houses (though the building as a whole may be) ; and
- (b) where a building is divided vertically into units so designed or adapted, those units may be houses.

(3) In any case where—

- (a) a house which is divided into flats or other units is a defective dwelling, and
- (b) a person is eligible for assistance in respect of that dwelling,

the fact that it is so divided is to be disregarded for the purposes of section 3(4)(a) of this Act.

(4) References in this Act to a disposal of an interest in a dwelling by a public sector authority include a reference to a disposal of a Crown interest or a Duchy interest in the dwelling; and in this subsection—

“Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department;

“Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall; and

“government department” includes any Minister of the Crown.

(5) Subject to subsection (6) below, where any interest in land is disposed of under a contract, the time at which the disposal is made is, for the purposes of this Act, the time the contract is made (and not, if different, the time at which the interest is conveyed).

(6) If the contract is conditional (and in particular if it is conditional on the exercise of an option) the time at which the disposal is made for those purposes is the time when the condition is satisfied.

(7) This section applies to Scotland as if, for subsections (5) and (6) above there were substituted—

“ (5) Subject to subsection (6) below, where an interest in land is disposed of, the time at which the disposal is made is, for the purposes of this Act, the time the missives are concluded (and not, if different, the date of entry specified in the missives).

(6) If the missives contain a condition precedent (and in particular if they contain a condition relating to the exercise of an option) the time at which the disposal is made for those purposes is the time when the condition precedent is satisfied.”

Provision in building society agreements to be disregarded under Restrictive Trade Practices Act 1976.  
1976 c. 34.

**28.**—(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, 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 standards of house building laid down or approved by, an appropriate body.

(2) In this section—

“building society” means a society within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967 ;

“new house” means any building or part of a building intended for use as a private dwelling and not previously occupied as such ; and

“appropriate body” means a body concerned with the specification and control of standards of house building—

(a) which has its chairman, or the chairman of its board of directors or other governing body, appointed by the Secretary of State ; and

(b) which promotes or administers a scheme conferring rights in respect of defects in the condition of houses on persons having or acquiring interests in them.

(3) The Director General of Fair Trading shall remove from the register maintained by him under the said Act of 1976 any particulars which at the passing of this Act are entered or filed in that register so far as they relate to any such term as is mentioned in subsection (1) above.

(4) In subsection (1) above the reference to a term includes a reference to a term to which the parties or any of them are deemed to have agreed by virtue of section 16 of the said Act of 1976 (recommendations of services supply associations).

29.—(1) This Act may be cited as the Housing Defects Act 1984.

Short title, commencement and extent.

(2) This Act, except section 28, shall come into force on such day as the Secretary of State may by order appoint ; and

(a) different days may be appointed for different provisions ; and

(b) any provision may be brought into force on different days for England, Scotland and Wales.

(3) This Act, except section 28, does not extend to Northern Ireland.

## SCHEDULES

## SCHEDULE 1

## REINSTATEMENT GRANT

## PART I

## PAYMENT OF GRANT

*Amount*

1.—(1) Subject to the following provisions of this Schedule, the amount of reinstatement grant payable is the appropriate percentage of—

- (a) the amount stated in a notice under section 4(2) of this Act or paragraph 3 below to be the amount of expenditure which, in the opinion of the appropriate authority, may properly be incurred in executing the qualifying work and entering into any associated arrangement,
- (b) the expenditure incurred in executing the qualifying work and entering into any associated arrangement, or
- (c) the expenditure which is the maximum amount permitted to be taken into account for the purposes of this paragraph,

whichever is the least.

(2) In this Schedule “appropriate percentage” means 90 per cent. or, in any 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 sub-paragraph (1) above were paid to him, 100 per cent.

(3) The Secretary of State may by order vary either or both of the percentages mentioned in sub-paragraph (2) above.

*Expenditure limit*

2.—(1) The maximum amount of expenditure permitted to be taken into account for the purposes of paragraph 1 above shall be 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 housing authority, approves a higher amount.

(2) An order under this paragraph may make different provision for different areas, different designated classes and different categories of dwelling.

*Changes in work or expenditure*

3. Where the appropriate authority are satisfied that—

- (a) the work required to reinstate the defective dwelling is more extensive than that stated in the notice under section 4(2) of this Act or a previous notice under this paragraph,
- (b) the amount of expenditure which may properly be incurred in executing that work is greater than that so stated,



- (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 under section 4(2) of this Act or a previous notice under this paragraph, or
- (d) where such an amount is so stated, the amount of expenditure which may be properly so incurred is greater than that amount,

SCH. 1

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 payable shall be adjusted accordingly.

### *Payment*

4.—(1) The appropriate authority may pay reinstatement grant in respect of the qualifying work in a single sum on completion of the qualifying work or by instalments.

(2) No instalment of reinstatement grant is to be paid at any time to the person entitled to assistance if that 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 appropriate authority shall pay reinstatement grant in respect of any associated arrangement when payment in respect of the expenditure incurred in entering into the arrangement concerned falls to be made.

## PART II

### REPAYMENT OF GRANT

5.—(1) This paragraph applies where—

- (a) an amount of reinstatement grant has been paid in one or more instalments to the person who was entitled to assistance, and
- (b) the qualifying work is not completed within the period for carrying out that work.

(2) Where this paragraph applies, the authority may, if they think fit, require that person to repay to them forthwith the amount referred to in sub-paragraph (1)(a) above and, if they do so—

- (a) he shall comply with the requirement, and
- (b) that amount or (if it was paid in more than one instalment) the amount of each instalment shall carry interest from the date on which it was paid until repayment at such reasonable rate as the authority may determine.

Sections 6 and 7.

## SCHEDULE 2

## REPURCHASE

## PART I

## ACQUISITION OF INTEREST

*The price*

1.—(1) The price payable for the acquisition of an interest in pursuance of this Act is 95 per cent. of the value of that interest at the relevant time.

(2) In this Schedule “the relevant time” means the time at which the notice under section 6(2) or the offer to purchase under section 7(2) of this Act is served on the person entitled to assistance.

*The value*

2.—(1) For the purposes of this Schedule, the value of an interest at the relevant time is the amount which, at that time, would be realised by a disposal of that interest on the open market by a willing seller to a person other than the appropriate authority on the assumptions specified in sub-paragraph (2) below and on the basis that no account is taken of any right to the grant of a tenancy under section 10 of this Act.

(2) Those assumptions are—

(a) that none of the defective dwellings to which the designation in question relates are affected by the qualifying defect ;

1957 c. 56.

1984 c. 29.

(b) that no liability has arisen or will arise under a covenant required by section 104B(2) of the Housing Act 1957, section 8(1) of the 1980 Act or paragraph 6(1) or 7(1) of Schedule 3 to the Housing and Building Control Act 1984 (covenants to repay discount or, in the case of a shared ownership lease, pay for outstanding share) or any covenant to the like effect ;

(c) that no obligation to acquire the interest arises under this Act ;

(d) where, at the time at which the value of the interest falls to be considered, there has been since the relevant time a material change in circumstances affecting the value of the interest, that the change had occurred before the relevant time ; and

(e) that (subject to the preceding paragraphs) the seller is selling with and subject to the rights and burdens with and subject to which the disposal is to be made.

(3) Sub-paragraph (2) above applies to Scotland as if, for paragraph (b) there were substituted—

“ (b) that no liability has arisen under section 6(1) of the Scottish Act of 1980 (recovery of discount on early resale) ”.

*Determination of value*

SCH. 2

3.—(1) Any question arising under this Schedule as to the value of an interest in a defective dwelling shall be determined by the district valuer in accordance with this paragraph.

(2) Within the period beginning with the service on the person entitled to assistance of a notice under subsection (2) of section 6 of this Act and ending with the service of a copy of the agreement drawn up under subsection (4) of that section for execution by the parties, the person entitled to assistance or the appropriate authority may, by notice in writing served on the district valuer, require that value to be determined or redetermined.

(3) If, after the end of that period but before the parties enter into an agreement for the acquisition of the interest of the person so entitled, there is a material change in circumstances affecting the value of the interest, that person or the appropriate authority may by notice in writing served on the district valuer before the parties enter into such an agreement require that value to be determined or redetermined.

(4) In any case where, in accordance with sub-paragraph (3) above, the district valuer is required, after the end of the period referred to in sub-paragraph (2) above, to determine the value of an interest, then—

(a) the authority shall, within three months of all the provisions of the agreement for the acquisition of the interest of the person so entitled by the authority being agreed or determined, draw up an agreement for execution by the parties embodying those provisions and serve a copy of the agreement on that person ; and

(b) subsection (5) of section 6 of this Act shall, instead of applying in relation to the agreement drawn up under subsection (4) of that section, apply in relation to the agreement drawn up under paragraph (a) above.

(5) Before making a determination in pursuance of this paragraph, the district valuer shall consider any representation made to him by the person so entitled or the authority within four weeks from the service of the notice under this paragraph.

(6) A person serving notice on the district valuer under this paragraph shall serve notice in writing of that fact on the authority or, as the case may be, the person so entitled.

(7) In this paragraph, “district valuer”, in relation to a defective dwelling, means an officer of the Commissioners of Inland Revenue who is for the time being appointed by the Commissioners to be, in relation to the valuation list for the area in which the dwelling is situated, the valuation or deputy valuation officer, or one of the valuation officers or deputy valuation officers.

(8) Sub-paragraphs (2) to (4) and (7) above do not apply to Scotland ; but within the period beginning with the service under section 7(2) of this Act on the person entitled to assistance of an offer

SCH. 2      to purchase and ending with the conclusion of missives, the person entitled to assistance or the appropriate authority may by notice in writing served on the district valuer require the value of the interest in the defective dwelling to be determined or redetermined.

*Effect of acquisition*

1974 c. 44.      4.—(1) Where an interest acquired in pursuance of section 6 of this Act is or includes a dwelling in relation to which a grant has been paid under Part VII of the Housing Act 1974—

- (a) any conditions imposed under or by virtue of that Part of that Act as conditions of the grant shall cease to be in force with respect to the dwelling with effect from the time of disposal of the interest, and
- (b) the owner for the time being of the dwelling shall not be liable to make in relation to the grant any payment under section 76 of that Act (repayment of grant on demand following breach of condition) unless the liability to do so arises from a demand made before the time of disposal of the interest.

(2) In sub-paragraph (1) above—

“dwelling” has the same meaning as in the Housing Act 1974 ; and

“owner” has the same meaning as in Part VII of that Act.

1974 c. 45.      5.—(1) Where an interest acquired in pursuance of section 7 of this Act is or includes a house in relation to which a grant has been made under Part I of the Housing (Scotland) Act 1974—

- (a) observance with respect to the house of any of the conditions specified in section 9 of that Act (conditions to be observed with respect to a house in respect of which a grant has been made) shall cease to be required with effect from the time of disposal of the interest and paragraph 7 of Schedule 2 to that Act (requirements as to records when observance of conditions ceases to be required) shall apply as it applies in the case there mentioned ; and
- (b) the owner for the time being of the house shall not be liable to make in relation to the grant any payment under Schedule 2 to that Act (consequences of breach of conditions) unless the liability to do so arises from a demand made before the time of disposal of the interest.

(2) In sub-paragraph (1) above—

1966 c. 49.      “house” has the same meaning as in the Housing (Scotland) Act 1966 ; and

“owner” has the same meaning as in Part I of the Housing (Scotland) Act 1974.

*Overreaching effect of conveyance*

6. A conveyance executed under an agreement entered into in pursuance of section 6 of this Act has effect under section 2(1) of

the Law of Property Act 1925 to overreach any incumbrance capable of being overreached under that section as if the requirements to which that section refers as to the payment of capital money allowed any part of the purchase price paid under paragraph 9 or 11 of this Schedule to be so paid and as if, where the interest conveyed is settled land, the conveyance were made under the powers of the Settled Land Act 1925.

SCH. 2  
1925 c. 20.  
1925 c. 18.

## PART II

### DISCHARGE OF CHARGES ON INTEREST

#### *Interpretation*

7. In this Part of this Schedule—

(a) “authority” means the person acquiring an interest in a defective dwellings under an agreement entered into in pursuance of section 6 of this Act ;

“interest acquired” means the interest in the dwelling concerned of which the vendor disposes under such an agreement ;

“purchase price” means the price which such an agreement requires the authority to pay for the interest acquired ; and

“vendor” means the person with whom the authority enter into such an agreement ; and

(b) references to a charge—

(i) include a mortgage or lien, but

(ii) do not include a rentcharge within the meaning of the Rentcharges Act 1977.

1977 c. 30.

#### *Effect of conveyance*

8.—(1) Subject to paragraph 9(3) below, a conveyance executed under an agreement entered into in pursuance of section 6 of this Act shall, by virtue of this paragraph, be effective—

(a) to discharge the interest acquired—

(i) from any relevant charge to which it is subject immediately before it is conveyed to the authority, and

(ii) from the operation of any order made by a court for the enforcement of such a charge ; and

(b) to extinguish any term of years created for the purposes of such a charge ;

without the persons entitled to or interested in such a charge, order or term of years becoming parties to or executing the conveyance.

(2) The effect of this paragraph is restricted to discharging the interest acquired from the charge concerned and does not affect personal liabilities.

**SCH. 2**

(3) For the purposes of this paragraph, a charge is a relevant charge if—

- (a) it secures the performance of an obligation, and
- (b) it is not—
  - (i) a local land charge, or
  - (ii) a charge which would be overreached apart from this paragraph.

*Application of purchase price*

9.—(1) Where by virtue of paragraph 8 above a conveyance will be effective to discharge a charge securing the payment of money, the authority shall, subject to sub-paragraph (2) below, apply the purchase price in the first instance in or towards the redemption of the charge and, if there is more than one, then according to their priorities.

(2) No duty arises under sub-paragraph (1) above in the case of—

- (a) any charge in favour of the holders of a series of debentures issued by any body, or
- (b) any charge in favour of trustees for such debenture holders which, at the date of the conveyance, is a floating charge, and an authority shall disregard such charges in performing their duty under that sub-paragraph.

(3) If an authority—

- (a) do not apply an amount which, under sub-paragraph (1) above, they are required to apply in or towards the redemption of a charge, and
- (b) do not pay that amount into court in accordance with paragraph 11 below,

the charge shall not be discharged by virtue of paragraph 8 above and the interest acquired shall remain subject to the charge as security for that amount.

(4) For the purpose of determining the amount which an authority are required to pay under sub-paragraph (1) above, a person entitled to a charge shall not be permitted to exercise any right to consolidate that charge with a separate charge on other property.

(5) For the purpose of redeeming a charge in pursuance of sub-paragraph (1) above, a person may be required to accept three months or any longer notice of the intention to pay the principal or any part of it secured by the charge, together with interest to the date of payment, notwithstanding that this differs from the terms of the security as to the time and manner of payment.

(6) A charge to which the vendor or the authority themselves are entitled shall rank for payment in pursuance of sub-paragraph (1) above as it would if another person were entitled to it.

10. Paragraphs 8(1) and 9(1) above do not prevent a person from joining in the conveyance for the purpose of discharging the interest

acquired from any charge without payment or for less payment than that to which he would otherwise be entitled ; and, if he does so, the person to whom the purchase price ought to be paid shall be determined accordingly.

*Payment into court*

11.—(1) Where under paragraph 8(1) above the interest acquired is to be discharged from any charge falling within that sub-paragraph, and in accordance with paragraph 9(1) above a person is or may be entitled in respect of the charge to receive the whole or part of the purchase price, then if—

- (a) for any reason difficulty arises in ascertaining how much is payable in respect of the charge ; or
- (b) for any reason mentioned in sub-paragraph (2) below difficulty arises in making a payment in respect of the charge ;

the authority may pay into court on account of the purchase price the amount, if known, of the payment to be made in respect of the charge or, if that amount is not known, the whole of the purchase price or such less amount as the authority think right in order to provide for that payment.

(2) The reasons referred to in sub-paragraph (1)(b) above are—

- (a) that a person who is or may be entitled to receive payment cannot be found or ascertained ;
- (b) that any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any steps reasonably required of him to enable the sum payable to be ascertained and paid ; or
- (c) that a tender of the sum payable cannot, by reason of complications in the entitlement to payment or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.

(3) Without prejudice to sub-paragraph (1)(a) above, the purchase price shall be paid by the authority into court if before the execution of a conveyance under an agreement entered into in pursuance of section 6 of this Act written notice is given to them—

- (a) that the vendor or a person entitled to a charge on the interest of which the vendor disposes under such an agreement so requires for the purpose of protecting the rights of persons so entitled, or for reasons related to the bankruptcy or winding up of the vendor ; or
- (b) that steps have been taken to enforce any charge on the interest of which the vendor disposes under such an agreement by the bringing of proceedings in any court, or by the appointment of a receiver, or otherwise ;

and where payment is to be made into court by reason only of a notice under this sub-paragraph, and notice is given with reference to proceedings in a court specified in the notice other than the county court, payment shall be made into the court so specified.

## SCH. 2

## PART III

## REGISTRATION OF TITLE

1925 c. 21.

12.—(1) Section 123 of the Land Registration Act 1925 (compulsory registration of title) shall apply in relation to a conveyance executed under an agreement entered into in pursuance of section 6 of this Act whether or not the dwelling concerned is in an area in which an Order in Council under section 120 of that Act is for the time being in force.

(2) For the purpose of registration of title to the land acquired by an authority in pursuance of section 6 of this Act—

(a) the authority shall give to the Chief Land Registrar a certificate stating that the person from whom the relevant interest was acquired was entitled to convey that interest subject only to such incumbrances, rights and interests as are stated in the conveyance or summarised in the certificate, and

(b) the Chief Land Registrar shall accept such a certificate as sufficient evidence of the facts stated in it,

but if, as a result, the Chief Land Registrar has to meet a claim against him under the Land Registration Acts 1925 to 1971, the authority shall be liable to indemnify him.

(3) A certificate under sub-paragraph (2) above—

(a) shall be in a form approved by the Chief Land Registrar; and

(b) shall be signed by such officer of the authority or such other person as may be approved by the Chief Land Registrar.

Section 10.

## SCHEDULE 3

## ALTERNATIVE ACCOMMODATION

*Interpretation*

1. In this Schedule—

“dwelling-house” has the same meaning as in section 10 of this Act,

“prospective tenant” means the person who is to be granted a tenancy under that section, and

“current dwelling-house” means the dwelling-house which, on the assumption that the circumstances do not fall within paragraph 2 below, would be required to be let to the prospective tenant under that section.

*Cases where change of dwelling-house is necessary*

2. Circumstances fall within this paragraph if either of the following Cases is applicable to them—

*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. SCH. 3

*Case 2*

The appropriate 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.

*Suitability of accommodation*

3. The suitability of accommodation is to be assessed by reference to the following matters, that is—

- (a) whether it is similar as regards extent and character to the accommodation afforded by the current dwelling-house ;
- (b) whether it is reasonably suitable to the means of the prospective tenant and his family ; and
- (c) whether it is reasonably suitable to the needs of the prospective tenant and his family having regard to proximity to place of work and place of education.

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Section 27.

PUBLIC SECTOR AUTHORITIES

1. In this Act "public sector authority" means—

In England and Wales, a county council, a district council, the Greater London Council, a London borough council, the Common Council of the City of London and the Council of the Isles of Scilly.

In Scotland, a regional, islands or district council.

An authority being a predecessor of any council mentioned above.

A joint board (and in Scotland a joint committee) every constituent member of which is or is appointed by a council mentioned above or by an authority being a predecessor of any such council.

The Peak Park Joint Planning Board.

The Lake District Special Planning Board.

A water authority.

The Housing Corporation.

The Scottish Special Housing Association.

A housing association which is registered in the register of housing associations established under section 13 of the Housing Act 1974 but is not a registered society (within 1974 c. 44.

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1965 c. 12.

the meaning of section 74 of the Industrial and Provident Societies Act 1965) whose rules—

(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,

or any housing association being a predecessor of such an association.

The Commission for the New Towns.

1981 c. 64.  
1968 c. 16.

A development corporation established by an order made or having effect as if made under the New Towns Act 1981 or the New Towns (Scotland) Act 1968.

The Development Board for Rural Wales.

The National Coal Board.

The United Kingdom Atomic Energy Authority.

2.—(1) For the purposes of this Act, the Secretary of State may by order—

(a) if he is satisfied that a body corporate meets the requirements of sub-paragraph (3) below, specify it as a body that is to be treated as a public sector authority, and

(b) whether or not he specifies it under paragraph (a) above, if he is satisfied that a body corporate met those requirements during any period, specify it as a body that is to be treated as having been a public sector authority during that period.

(2) An order under this paragraph may, in the case of a body previously specified under sub-paragraph (1)(a) above which the Secretary of State is satisfied has ceased to meet those requirements on any date, provide that it is to be treated for the purposes of this Act as having ceased to be a public sector authority on that date.

(3) The requirements mentioned in sub-paragraphs (1) and (2) above are that—

(a) the affairs of the body are managed by its members and its members hold office as such by virtue of their appointment to that or another office by a Minister of the Crown under any enactment, or

1948 c. 38.

(b) it is a subsidiary (within the meaning of the Companies Act 1948) of such a body.

3.—(1) For the purposes of this Act, the Secretary of State may by order—

(a) if he is satisfied that a housing association meets the requirements of sub-paragraph (3) below, specify it as an association that is to be treated as a public sector authority, and

(b) whether or not he specifies it under paragraph (a) above, if he is satisfied that a housing association met those re-

quirements during any period, specify it as an association that is to be treated as having been a public sector authority during that period.

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(2) An order under this paragraph may, in the case of an association previously specified under sub-paragraph (1)(a) above which the Secretary of State is satisfied has ceased to meet those requirements on any date, provide that it is to be treated for the purposes of this Act as having ceased to be a public sector authority on that date.

(3) The requirements mentioned in sub-paragraphs (1) and (2) above are 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 their dependants.

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