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SCHEDULES

SCHEDULE 6 **E+W+S**

AMENDMENTS OF ^{M1}HOUSING ASSOCIATIONS ACT 1985

Marginal Citations

M1 1985 c. 69.

PART I **E+W+S**

AMENDMENTS OF PART I WITH RESPECT TO THE HOUSING CORPORATION, HOUSING FOR WALES AND SCOTTISH HOMES

1 After section 2 there shall be inserted the following section—

“2A The Corporation.

- (1) In relation to a housing association which has its registered office for the purposes of the 1965 Act in Scotland, “the Corporation” means Scottish Homes.
- (2) In relation to a housing association—
 - (a) which is a society registered under the 1965 Act and has its registered office for the purposes of that Act in Wales, or
 - (b) which is a registered charity and has its address for the purposes of registration by the Charity Commissioners in Wales,“the Corporation” means Housing for Wales.
- (3) In relation to any other housing association which is a society registered under the 1965 Act or a registered charity, “the Corporation” means the Housing Corporation.
- (4) Subject to subsections (1) to (3), in this Act, except where the context otherwise requires, “the Corporation” means the Housing Corporation, Scottish Homes or Housing for Wales and “the Corporations” means those three bodies.”

2 Except as provided below, for the words “Housing Corporation”, in each place where they occur in Part I, there shall be substituted “Corporation”.

3 (1) In section 3 (the register), in subsection (1)—

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- (a) for the words “the Housing Corporation” there shall be substituted “each of the Corporations”; and
- (b) after the word “Corporation”, in the second place where it occurs, there shall be inserted “by which it is maintained”.
- (2) After subsection (1) of that section there shall be inserted the following subsection—
- “(1A) In this Act “register”, in relation to the Corporation, means the register maintained by the Corporation under this section.”
- (3) In subsection (2) of that section the words “of housing associations maintained under this section” shall be omitted.
- 4 (1) In section 5 (registration) for subsection (2) there shall be substituted the following subsection—
- “(2) Nothing in subsection (1) shall require the Corporations to establish the same criteria; and each of them may vary any criteria established by it under that subsection.”
- (2) For subsection (4) of that section there shall be substituted the following subsection—
- “(4) Where at any time a body is, or was, on a register maintained under section 3, then, for all purposes other than rectification of that register, the body shall be conclusively presumed to be, or to have been, at that time a housing association eligible for registration in that register.”
- 5 In section 6(4) (removal from register) for paragraphs (a) to (c) there shall be substituted the following paragraphs—
- “(a) a grant under section 41 (housing association grants),
- (b) a grant under section 54 (revenue deficit grants),
- (c) any such payment or loan as is mentioned in paragraph 2 or paragraph 3 of Schedule 1 (grant-aided land),
- (d) a grant or a loan under section 2(2) of the Housing (Scotland) Act 1988,
- (e) a grant under section 50 of the Housing Act 1988 (housing association grants), or
- (f) a grant under section 51 of that Act (revenue deficit grants)”.
- 6 In section 7 (appeals against removal from the register), in subsection (1) for the words from “to the High Court” onwards there shall be substituted,—
- “(a) where it is a decision of Scottish Homes, to the Court of Session; and
- (b) in any other case, to the High Court”.
- 7 (1) In section 9 (control by Corporation of disposition of land by housing associations) for subsection (1) there shall be substituted the following subsections—

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- “(1) Subject to section 10 and sections 81(7), 105(6) and 133(7) of the Housing Act 1988, the consent of the Corporation is required for any disposition of land by a registered housing association.
- (1A) Subject to section 10, the consent of the relevant Corporation is required for any disposition of grant-aided land (as defined in Schedule 1) by an unregistered housing association; and for this purpose “the relevant Corporation” means,—
- (a) if the land is in England, the Housing Corporation;
 - (b) if the land is in Scotland, Scottish Homes, and
 - (c) if the land is in Wales, Housing for Wales.”
- (2) In subsection (3) of that section—
- (a) for the words “the consent of the Corporation”, in the first place where they occur, there shall be substituted “consent”; and
 - (b) for the words “the consent of the Corporation”, in the second place where they occur, there shall be substituted “that consent”.
- (3) After subsection (5) of that section there shall be added—
- “(6) References in this section to consent are references,—
- (a) in the case of the Housing Corporation or Housing for Wales, to consent given by order under the seal of the Corporation; and
 - (b) in the case of Scottish Homes, to consent in writing.”
- 8 (1) In section 10 (dispositions excepted from section 9), in subsection (1) for the words from “the Charity Commissioners”, in the second place where they occur, onwards there shall be substituted “before making an order in such a case the Charity Commissioners shall consult,—
- (a) in the case of dispositions of land in England, the Housing Corporation;
 - (b) in the case of dispositions of land in Scotland, Scottish Homes; and
 - (c) in the case of dispositions of land in Wales, Housing for Wales.”
- (2) In subsection (2) of that section at the end of paragraph (b) there shall be inserted “or
- (c) a letting of land under an assured tenancy or an assured agricultural occupancy, or
 - (d) a letting of land in England or Wales under what would be an assured tenancy or an assured agricultural occupancy but for any of paragraphs 4 to 8 of Schedule 1 to the Housing Act 1988, or
 - (e) a letting of land in Scotland under what would be an assured tenancy but for any of paragraphs 3 to 8 and 12 of Schedule 4 to the Housing (Scotland) Act 1988.”
- 9 (1) In section 15 (payments and benefits to committee members, etc.) at the end of subsection (2) there shall be inserted the following paragraphs—
- “(f) except in the case of housing associations registered in the register maintained by Scottish Homes, payments made or benefits granted by an association in such class or classes of case as may be specified

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in a determination made by the Corporation with the approval of the Secretary of State;

- (g) in the case of housing associations registered in the register maintained by Scottish Homes, payments made or benefits granted by such an association with the approval of Scottish Homes (which approval may be given only in relation to a class or classes of case).”

(2) After subsection (2) there shall be inserted the following subsection—

[^{F1}“(2A)] The Housing Corporation and Housing for Wales may make different determinations for the purposes of subsection (2)(f) above and, before making such a determination, the Corporation shall consult such bodies appearing to it to be representative of housing associations as it considers appropriate; and after making such a determination the Corporation shall publish the determination in such manner as it considers appropriate for bringing it to the notice of the associations concerned.”

Textual Amendments

- F1** Figure substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 Pt. I para. 111](#)

10 For section 15A (which was inserted by section 14 of the ^{M1}Housing (Scotland) Act 1986) there shall be substituted the following section—

“15A Payments etc. in community-based housing associations in Scotland.

(1) In relation to a community-based housing association in Scotland the following are also permitted, notwithstanding section 15(1)—

- (a) payments made by the association in respect of the purchase of a dwelling, or part of a dwelling, owned and occupied by a person described in subsection (2) who is not an employee of the association; but only if—
- (i) such payments constitute expenditure in connection with housing projects undertaken for the purpose of improving or repairing dwellings; and
 - (ii) the purchase price does not exceed such value as may be placed on the dwelling, or as the case may be part, by the district valuer;
- (b) the granting of the tenancy of a dwelling, or part of a dwelling, to such a person; but only if the person—
- (i) lives in the dwelling or in another dwelling owned by the association; or
 - (ii) has at any time within the period of twelve months immediately preceding the granting of the tenancy lived in the dwelling (or such other dwelling) whether or not it belonged to the housing association when he lived there.

(2) The persons mentioned in subsection (1) are—

- (a) a committee member or voluntary officer of the association; or

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- (b) a person who at any time in the twelve months preceding the payment (or as the case may be the granting of the tenancy) has been such a member or officer; or
 - (c) a close relative of a person described in paragraph (a) or (b).
- (3) For the purposes of subsection (1), a housing association is “community-based” if—
- (a) prior to the specified date, it was designated as such by the Housing Corporation; or
 - (b) on or after that date, it is designated as such by Scottish Homes;
- and, in this subsection, “specified date” has the same meaning as in section 3 of the Housing (Scotland) Act 1988.
- (4) Scottish Homes—
- (a) shall make a designation under subsection (3) only if it considers that the activities of the housing association relate wholly or mainly to the improvement of dwellings, or the management of improved dwellings, within a particular community (whether or not identified by reference to a geographical area entirely within any one administrative area); and
 - (b) may revoke such a designation (including a designation made by the Housing Corporation under subsection (3) above as originally enacted) if it considers, after giving the association an opportunity to make representations to it as regards such revocation, that the association’s activities have ceased so to relate.”

Marginal Citations

M1 1986 c. 65.

- 11 In section 16 (general power to remove committee member), in subsection(4) for the words from “order to the High Court” onwards there shall be substituted “order,—
- (a) if it is an order of the Housing Corporation or Housing for Wales, to the High Court, and
 - (b) if it is an order of Scottish Homes, to the Court of Session.”
- 12 In section 17 (power to appoint new committee members) at the end of subsection (1) there shall be added the words “and the power conferred by paragraph (c) may be exercised notwithstanding that it will cause the maximum number of committee members permissible under the association’s constitution to be exceeded”.
- 13 (1) In section 18 (exercise of powers in relation to registered charities), in subsection (1) immediately before the entry relating to section 41 of the 1985 Act there shall be inserted the following entries—
- “section 50 of the Housing Act 1988 (housing association grants),
 - section 51 of that Act (revenue deficit grants)”.

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- (2) In subsection (3) of that section (appointment by Corporation of trustees of associations which are registered charities: appointments not to exceed maximum number of trustees) the words from “and the Corporation” onwards shall be omitted.
- 14 In section 19 (change of rules under the 1965 Act), in subsection (3) for the words “given by order under the seal of the Corporation” there shall be substituted “given,
 —
 (a) in the case of the Housing Corporation or Housing for Wales, by order under the seal of the Corporation; and
 (b) in the case of Scottish Homes, by notice in writing.”
- 15 In section 21 (amalgamation and dissolution under the 1965 Act), in subsection (6) for the words from “are to an order” onwards there shall be substituted “are,—
 (a) in the case of the Housing Corporation or Housing for Wales, to consent given by order under the seal of the Corporation; and
 (b) in the case of Scottish Homes, to consent given in writing.”
- 16 In section 22 (Corporation’s power to petition for winding up), in subsection (1) after the word “applies” there shall be inserted “(a)” and at the end there shall be added “or
 (b) on the ground that the association is unable to pay its debts within the meaning of section 518 of the Companies Act 1985.”
- 17 (1) In section 24 (general requirements as to accounts and audit), in subsection (2) after the word “association” there shall be inserted “which is a registered charity”.
 (2) In subsection (5) of that section after the words “different areas” there shall be inserted “or for different descriptions of housing associations or housing activities”.
 (3) After subsection (5) of that section there shall be inserted the following subsection—
 “(6) For the purposes of subsection (5)(a), descriptions may be framed by reference to any matters whatever, including in particular, in the case of housing activities, the manner in which they are financed.”
- 18 In section 27 (responsibility for securing compliance with accounting requirements), in subsection (2) at the end of paragraph (c) there shall be added “or
 (d) section 55(9) of the Housing Act 1988 is not complied with”.
- 19 (1) In section 28 (Corporation may appoint a person to inquire into the affairs of a registered housing association), in subsection (1) for the words “the Corporation’s staff” there shall be substituted “staff of any of the Corporations” and at the end of that subsection there shall be added “and, if the appointed person considers it necessary for the purposes of the inquiry, he may also inquire into the business of any other body which, at a time which the appointed person considers material, is or was a subsidiary or associate of the association concerned”.

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- (2) In subsection (2) of that section at the end of paragraph (b) there shall be added “or
- (c) any person who is, or has been, an officer, agent or member of a subsidiary or associate of the association; or
 - (d) any other person whom the appointed person has reason to believe is or may be in possession of information of relevance to the inquiry”; and in the words following paragraph (b) for the words “the association’s business” there shall be substituted “the business of the association or any other such body as is referred to in subsection (1)”.
- (3) After subsection (3) of that section there shall be inserted the following subsections—
- “(3A) Where, by virtue of subsection (2), any books, accounts or other documents are produced to the appointed person, he may take copies of or make extracts from them.
 - (3B) The appointed person may, if he thinks fit during the course of the inquiry, make one or more interim reports to the Corporation on such matters as appear to him to be appropriate.”
- (4) After subsection (5) of that section there shall be added the following subsections—
- “(6) In this section, in relation to a housing association, “subsidiary” means a company with respect to which one of the following conditions is fulfilled,—
 - (a) the association is a member of the company and controls the composition of the board of directors; or
 - (b) the association holds more than half in nominal value of the company’s equity share capital; or
 - (c) the company is a subsidiary, within the meaning of the Companies Act 1985 or the Friendly and Industrial and Provident Societies Act 1968, of another company which, by virtue of paragraph (a) or paragraph (b), is itself a subsidiary of the housing association;and, in the case of a housing association which is a body of trustees, the reference in paragraph (a) or paragraph (b) to the association is a reference to the trustees acting as such and any reference in subsection (7) to the association shall be construed accordingly.
 - (7) For the purposes of subsection (6)(a), the composition of a company’s board of directors shall be deemed to be controlled by a housing association if, but only if, the association, by the exercise of some power exercisable by the association without the consent or concurrence of any other person, can appoint or remove the holders of all or a majority of the directorships.
 - (8) In this section, in relation to a housing association, “associate” means—
 - (a) any body of which the association is a subsidiary, and
 - (b) any other subsidiary of such a body,and in this subsection “subsidiary” has the same meaning as in the Companies Act 1985 or the Friendly and Industrial and Provident Societies Act 1968 or, in the case of a body which is itself a housing association, has the meaning assigned by subsection (6).
 - (9) In relation to a company which is an industrial and provident society,—

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- (a) any reference in subsection (6)(a) or subsection (7) to the board of directors is a reference to the committee of management of the society; and
- (b) the reference in subsection (7) to the holders of all or a majority of the directorships is a reference to all or a majority of the members of the committee or, if the housing association is itself a member of the committee, such number as together with the association would constitute a majority.”
- 20 In section 29(1) (extraordinary audit) after the words “section 28” there shall be inserted “into the affairs of a registered housing association”.
- 21 (1) In section 30 (general powers of Corporation as a result of an inquiry or audit) after subsection (1) there shall be inserted the following subsection—
- “(1A) If at any time the appointed person makes an interim report under section 28(3B) and, as a result of that interim report, the Corporation is satisfied that there has been misconduct or mismanagement as mentioned in subsection (1),—
- (a) the Corporation may at that time exercise any of the powers conferred by paragraphs (b) to (d) of that subsection; and
- (b) in relation to the exercise at that time of the power conferred by subsection (1)(b), the reference therein to a period of six months shall be construed as a reference to a period beginning at that time and ending six months after the date of the report under section 28(4).”
- (2) In subsection (4) of that section (appeal against certain orders) for the words from “order to the High Court” onwards there shall be substituted “order,—
- (a) if it is an order of the Housing Corporation or Housing for Wales, to the High Court; and
- (b) if it is an order of Scottish Homes, to the Court of Session.”
- 22 (1) In section 31 (exercise of powers in relation to registered charities), in subsection (1) immediately before the entry relating to section 41 of the 1985 Act there shall be inserted the following entries—
- “section 50 of the Housing Act 1988 (housing association grants),
section 51 of that Act (revenue deficit grants)”.
- (2) At the end of subsection (2)(b) of that section there shall be added the words “and such other activities (if any) of the association as are incidental to or connected with its housing activities”.
- 23 In section 33 (recognition of central association), in subsection (1) after “housing associations” there shall be inserted “in Great Britain or in any part of Great Britain”.
- 24 After section 33 there shall be inserted the following section—

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“33A Provision of services between the Corporations.

Any of the Corporations may enter into an agreement with the others or either of them for the provision of services of any description by the one to the other or others on such terms, as to payment or otherwise, as the parties to the agreement consider appropriate.”

- 25 In section 39 (minor definitions) before the definition of “mental disorder” there shall be inserted—

“ “assured tenancy” has, in England and Wales, the same meaning as in Part I of the Housing Act 1988 and, in Scotland, the same meaning as in Part II of the Housing (Scotland) Act 1988;

“assured agricultural occupancy” has the same meaning as in Part I of the Housing Act 1988.”

- 26 In section 40 (index of defined expressions in Part I)—

- (a) after the entry relating to “appropriate registrar” there shall be inserted—

“ “assured agricultural occupancy” section 39

“assured tenancy” section 39”;

- (b) after the entry relating to “the Companies Act” there shall be inserted—

“ “the Corporation” section 2A”; and

- (c) in the entry beginning “register”, in the second column for “3(2)” there shall be substituted “3”.

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