

SCHEDULES

SCHEDULE 1

REGISTERED SOCIAL LANDLORDS: REGULATION

PART IV

INQUIRY INTO AFFAIRS OF REGISTERED SOCIAL LANDLORDS

Inquiry

- 20 (1) The Corporation may direct an inquiry into the affairs of a registered social landlord if it appears to the Corporation that there may have been misconduct or mismanagement.

For this purpose “misconduct” includes any failure to comply with the requirements of this Part of this Act.

- (2) Any such inquiry shall be conducted by one or more persons appointed by the Corporation.
- (3) If one person is appointed he must be a person who is not a member or an employee of the Corporation and has not been such a member or employee within the previous five years; and if more than one person is appointed at least one of them must be such a person.
- (4) If the Corporation so directs, or if during the course of the inquiry the person or persons conducting the inquiry consider it necessary, the inquiry shall extend to the affairs of any other body which at any material time is or was a subsidiary or associate of the registered social landlord.
- (5) The person or persons conducting the inquiry may, if they think fit during the course of the inquiry, make one or more interim reports on such matters as appear to them to be appropriate.
- (6) On completion of the inquiry the person or persons conducting the inquiry shall make a final report on such matters as the Corporation may specify.
- (7) An interim or final report shall be in such form as the Corporation may specify.

Power of appointed person to obtain information

- 21 (1) A person appointed by the Corporation under paragraph 20 to conduct an inquiry (or, if more than one person is so appointed, each of those persons) has, for the purposes of the inquiry, the same powers as are conferred on the Corporation by section 30 (general power to obtain information).

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- (2) Where by virtue of a notice under that section given by an appointed person any documents are produced to any person, the person to whom they are produced may take copies of or make extracts from them.
- (3) Section 31 (enforcement of notice to provide information, &c.) applies in relation to a notice given under this paragraph by an appointed person as it applies in relation to a notice given under section 30 by the Corporation.

Extraordinary audit for purposes of inquiry

- 22 (1) For the purposes of an inquiry under paragraph 20 the Corporation may require the accounts and balance sheet of the registered social landlord concerned, or such of them as the Corporation may specify, to be audited by a qualified auditor appointed by the Corporation.
- (2) A person is a qualified auditor for this purpose if he would be eligible for appointment as auditor of the ordinary accounts of the registered social landlord.
- (3) On completion of the audit the appointed auditor shall make a report to the Corporation on such matters and in such form as the Corporation may specify.
- (4) The expenses of the audit, including the remuneration of the auditor, shall be paid by the Corporation.
- (5) An audit under this paragraph is additional to, and does not affect, any audit made or to be made under any other enactment.

Powers exercisable on interim basis

- 23 (1) The Corporation may make an order under this paragraph—
 - (a) where an inquiry has been directed under paragraph 20 and the Corporation has reasonable grounds to believe—
 - (i) that there has been misconduct or mismanagement in the affairs of the registered social landlord, and
 - (ii) that immediate action is needed to protect the interests of the tenants of the registered social landlord or to protect the assets of the landlord; or
 - (b) where an interim report has been made under paragraph 20(5) as a result of which the Corporation is satisfied that there has been misconduct or mismanagement in the affairs of a registered social landlord.
- (2) The orders that may be made under this paragraph are—
 - (a) an order suspending any officer, employee or agent of the registered social landlord who appears to the Corporation to have been responsible for or privy to the misconduct or mismanagement or by his conduct to have contributed to or facilitated it;
 - (b) an order directing any bank or other person who holds money or securities on behalf of the registered social landlord not to part with the money or securities without the approval of the Corporation;
 - (c) an order restricting the transactions which may be entered into, or the nature or amount of the payments which may be made, by the registered social landlord without the approval of the Corporation.

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- (3) An order under this paragraph, if not previously revoked by the Corporation, shall cease to have effect six months after the making of the final report under paragraph 20(6) unless the Corporation renews it, which it may do for a further period of up to six months.
- (4) A person suspended by an order under sub-paragraph (2)(a) may appeal against the order to the High Court.
- (5) Where a person is suspended by such an order, the Corporation may give directions with respect to the performance of his functions and otherwise as to matters arising from his suspension.

The Corporation may, in particular, appoint a named person to perform his functions.

- (6) A person who contravenes an order under sub-paragraph (2)(b) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months, or both.

Proceedings for such an offence may be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.

Powers exercisable as a result of final report or audit

- 24 (1) Where the Corporation is satisfied, as the result of an inquiry under paragraph 20 or an audit under paragraph 22, that there has been misconduct or mismanagement in the affairs of a registered social landlord, it may make an order under this paragraph.
- (2) The orders that may be made under this paragraph are—
 - (a) an order removing any officer, employee or agent of the registered social landlord who appears to the Corporation to have been responsible for or privy to the misconduct or mismanagement or by his conduct to have contributed to or facilitated it;
 - (b) an order suspending any such person for up to six months, pending determination whether he should be removed;
 - (c) an order directing any bank or other person who holds money or securities on behalf of the registered social landlord not to part with the money or securities without the approval of the Corporation;
 - (d) an order restricting the transactions which may be entered into, or the nature or amount of the payments which may be made, by the registered social landlord without the approval of the Corporation.
- (3) Before making an order under sub-paragraph (2)(a) the Corporation shall give at least 14 days' notice of its intention to do so—
 - (a) to the person it intends to remove, and
 - (b) to the registered social landlord concerned.

Notice under this sub-paragraph may be given by post, and if so given to the person whom the Corporation intends to remove may be addressed to his last known address in the United Kingdom.

- (4) A person who is ordered to be removed under sub-paragraph (2)(a) or suspended under sub-paragraph (2)(b) may appeal against the order to the High Court.

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- (5) Where a person is suspended under sub-paragraph (2)(b), the Corporation may give directions with respect to the performance of his functions and otherwise as to matters arising from the suspension.

The Corporation may, in particular, appoint a named person to perform his functions.

- (6) A person who contravenes an order under sub-paragraph (2)(c) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months, or both.

Proceedings for such an offence may be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.

Disqualification as officer of registered social landlord.

- 25 (1) A person is disqualified from being an officer of a registered social landlord if the Corporation has made an order against him under—
- (a) paragraph 24(2)(a) (removal for misconduct or mismanagement), or
 - (b) section 30(1)(a) of the Housing Associations Act 1985 or section 20(1)(a) of the Housing Act 1974 (corresponding earlier provisions).
- (2) The Corporation may, on the application of any such person, waive his disqualification either generally or in relation to a particular registered social landlord or particular class of registered social landlord.
- (3) Any waiver shall be notified in writing to the person concerned.
- (4) For the purposes of this paragraph the Corporation shall keep, in such manner as it thinks fit, a register of all persons who have been removed from office by the Corporation under the provisions mentioned in sub-paragraph (1).
- (5) The register shall be available for public inspection at all reasonable times.

Persons acting as officer while disqualified.

- 26 (1) A person who acts as an officer of a registered social landlord while he is disqualified under paragraph 25(1) commits an offence.
- A person guilty of such an offence is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (2) Proceedings for an offence under sub-paragraph (1) may be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.
- (3) Acts done as an officer of a registered social landlord by a person who is disqualified under paragraph 25(1) are not invalid by reason only of that disqualification.
- (4) Where the Corporation is satisfied—
- (a) that a person has acted as an officer of a registered social landlord while disqualified under paragraph 25(1), and
 - (b) that while so acting he has received from the registered social landlord any payments or benefits in connection with his so acting,

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it may by order direct him to repay to the registered social landlord the whole or part of any such sums or, as the case may be, to pay to it the whole or part of the monetary value (as determined by it) of any such benefit.

Power to direct transfer of land

- 27 (1) Where as a result of an inquiry under paragraph 20 or an audit under paragraph 22 the Corporation is satisfied as regards a registered social landlord—
- (a) that there has been misconduct or mismanagement in its administration, or
 - (b) that the management of its land would be improved if its land were transferred in accordance with the provisions of this paragraph,
- the Corporation may, with the consent of the Secretary of State, direct the registered social landlord to make such a transfer.
- (2) Where the registered social landlord concerned is a charity, the Corporation may only direct a transfer to be made to another registered social landlord—
- (a) which is also a charity, and
 - (b) the objects of which appear to the Corporation to be, as nearly as practicable, akin to those of the registered social landlord concerned.
- (3) In any other case the Corporation may direct a transfer to be made to the Corporation or to another registered social landlord.
- (4) The transfer shall be on such terms as the Corporation may direct on the basis of principles determined by it.
- The consent of the Secretary of State is required both for the terms of the transfer and for the determination of the principles on which it is based.
- (5) The price shall not be less than the amount certified by the district valuer to be the amount the property would command if sold by a willing seller to another registered social landlord.
- (6) The terms shall include provision as to the payment of debts and liabilities (including debts and liabilities secured on the land).

Availability of powers in relation to registered charities.

- 28 (1) The Corporation may exercise its powers under paragraphs 20 to 26 in relation to a registered charity only if the charity has, at any time before the powers are exercised—
- (a) received financial assistance under section 24 of the Local Government Act 1988 (assistance for privately let housing accommodation),
 - (b) had property transferred to it on a qualifying disposal under section 135 of the Leasehold Reform, Housing and Urban Development Act 1993, or
 - (c) received a grant or loan under any of the following provisions.
- (2) The provisions are—
- section 18 of this Act (social housing grant),
 - section 22 of this Act or section 58 of the Housing Associations Act 1985 (grants or loans by local authorities),
 - section 50 of the Housing Act 1988, section 41 of the Housing Associations Act 1985 or any enactment replaced by that section (housing association grant),

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section 51 of the Housing Act 1988 or section 54 or 55 of the Housing Associations Act 1985 (revenue deficit grant or hostel deficit grant),
section 79 of the Housing Associations Act 1985 (loans by Housing Corporation),
section 31 of the Housing Act 1974 (management grants), or
any enactment mentioned in paragraph 2 or 3 of Schedule 1 to the Housing Associations Act 1985 (pre-1974 grants and certain loans).

- (3) In relation to a registered charity paragraphs 20 to 26 have effect with the following adaptations—
- (a) references to its affairs are confined to its housing activities and such other activities (if any) as are incidental to or connected with its housing activities;
 - (b) references to its accounts do not include revenue accounts which do not relate to its housing activities, except so far as such accounts are necessary for the auditing of revenue accounts which do so relate or of the balance sheet;
 - (c) a person is a qualified auditor for the purpose of paragraph 22 (extraordinary audit) only if he is an auditor qualified for the purposes of paragraph 18 (accounting and audit requirements for charities).
- (4) The Corporation shall notify the Charity Commissioners upon the exercise in relation to a registered charity of its powers under—
- (a) paragraph 20(1) (inquiry into affairs of registered social landlord),
 - (b) paragraph 23(2)(a) (interim suspension of person in connection with misconduct or mismanagement), or
 - (c) paragraph 24(2)(a) or (b) (removal of person in connection with misconduct or mismanagement or suspension with a view to removal).
- 29 The Corporation may not exercise its powers under paragraph 27 in relation to a registered charity.