



# Housing Act 1974

## 1974 CHAPTER 44

### PART III

#### FINANCIAL ASSISTANCE FOR HOUSING ASSOCIATIONS

#### **29 Housing association grants**

- (1) The Secretary of State may, in accordance with the provisions of section 30 below, make grants (in this Part of this Act referred to as "housing association grants") to registered housing associations, other than associations falling within section 18(1)(b) of this Act, in respect of their expenditure in connection with housing projects approved by him.
- (2) For the purposes of this Part of this Act a project is a housing project if it is undertaken for all or any of the following purposes, namely,—
  - (a) providing housing or residential accommodation,
  - (b) improving such accommodation,
  - (c) repairing such accommodation,
  - (d) providing land or buildings for purposes which, in the opinion of the Secretary of State, will be for the benefit of persons for whom any housing or residential accommodation is or is to be provided, and
  - (e) improving or repairing any such buildings as are referred to in paragraph (d) above,and in this subsection "housing or residential accommodation" means dwellings which are or are to be let or available for letting or a building or part of a building used or for use as a hostel or part of a hostel and for this purpose the grant of a licence to occupy shall be treated as a letting.
- (3) No housing association grant shall be paid in respect of any project unless an application therefor is submitted to the appropriate body, that is to say,—
  - (a) in England and Wales, if the registered housing association concerned makes an application to a council for a loan under section 119 of the Housing Act

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1957 in connection with the project, to that council, and in any other case to the Corporation, and

(b) in Scotland, to a local authority, the Corporation or the Secretary of State, and where a council in England and Wales, a local authority in Scotland or the Corporation receive an application under this subsection, they shall forward it to the Secretary of State together with their own assessment of the project.

- (4) Subject to subsection (5) below, the housing association grant payable to a registered housing association in respect of a housing project approved by the Secretary of State shall be equal to the net cost of the project to the association.
- (5) The Secretary of State may, with the consent of the Treasury, determine maximum levels of cost or of grant applicable to housing projects generally, to any particular housing project or to any description of housing project, and the amount of the housing association grant payable in respect of a project to which any such determination applies shall be limited in accordance with the determination.
- (6) Subject to subsection (7) below, for the purposes of this section the net cost of a housing project to a registered housing association means the difference between—
- (a) the estimated expenditure of the association which, in the opinion of the Secretary of State, is attributable to the project and reasonable and appropriate, having regard to all the circumstances, and
  - (b) the estimated income which, in the opinion of the Secretary of State, the association might reasonably be expected to receive in respect of the project, including any sums received or to be received by way of grant or subsidy under any enactment, other than this section,

and for this purpose estimated expenditure and estimated income shall be calculated in such manner as the Secretary of State may, with the consent of the Treasury, from time to time determine, and any such calculation may take account of expenditure likely to be incurred and income likely to be received after the completion of the project in connection with the premises to which the project relates.

- (7) If, in the case of an application for a housing association grant in respect of a particular project, it appears to the Secretary of State that it would be appropriate to do so, he may for the purposes of this section determine the net cost of the project to the association in such manner as he considers appropriate instead of in accordance with subsection (6) above.
- (8) Before making any general determination for the purposes of subsection (5) or subsection (6) above, the Secretary of State shall consult such bodies appearing to him to be representative of housing associations as he considers appropriate.

### **30 Payments of housing association grant**

- (1) According as the Secretary of State may determine, a housing association grant in respect of a housing project shall be payable—
- (a) in a single sum at such time as, in the opinion of the Secretary of State, the project is completed, or
  - (b) in annual instalments beginning in the financial year in which, in his opinion, the project is completed and continuing over such number of years as he may determine, either generally or in relation to the particular project,
- but, in either case, the Secretary of State may, if he considers it appropriate to do so, make payments on account of the grant before the project is completed.

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- (2) In giving his approval to a housing project for the purposes of a housing association grant, the Secretary of State may provide that payment of the grant is conditional upon compliance by the housing association concerned with such conditions as he may specify, including (in a case where the project has not yet been completed) conditions as to the period within which it is to be completed.
- (3) The Secretary of State may reduce the amount of, or of any payment in respect of, a housing association grant or suspend or discontinue any instalments of such a grant—
  - (a) if he imposed any conditions under subsection (2) above and any of those conditions have not been complied with; or
  - (b) if he is satisfied that the whole or any part of a building to which the project relates and which comprises or is intended to comprise housing or residential accommodation as defined in section 29(2) above—
    - (i) has been converted, demolished or destroyed; or
    - (ii) is not fit to be used or is not being used for the purpose for which it was intended; or
    - (iii) has been sold or leased ; or
    - (iv) has ceased for any reason whatsoever to be vested in the housing association concerned or in trustees for that association.
- (4) If at any time any dwelling or hostel or part thereof to which a housing project relates is leased to or becomes vested in a registered housing association or trustees for a registered housing association, other than the association by whom the application for the housing association grant relating to that project was made, the Secretary of State may pay to that other association the whole or any part of the grant or any instalment thereof which would otherwise have been paid after that time to the association by whom the application for the grant was made.
- (5) If, at any time after a housing association grant or any payment in respect of such a grant has been made to a registered housing association, it appears to the Secretary of State that any building to which the housing project concerned relates has ceased to be available for use for the purpose for which, at the time the project was approved, it was intended that it should be used, he may direct the association to pay to him an amount equal to the whole or such proportion as he may determine of that grant or, as the case may be, of any payment made in respect of it; and any amount which a registered housing association is directed to repay to the Secretary of State under this subsection shall be recoverable as a simple contract debt, or in Scotland as a debt due under a contract, in any court of competent jurisdiction.
- (6) For the purposes of this section, the whole or any part of any building is leased if and only if it is leased for a term exceeding 7 years, or for a term not exceeding 7 years granted by a lease which confers on the lessee an option for renewal for a term which, together with the original term, exceeds 7 years.
- (7) No housing association grant (or payment in respect of such a grant) may be made before the operative date, but applications for such grants may be submitted in accordance with section 29(3) above before that date and may be so submitted by a housing association notwithstanding that it is not then registered.
- (8) On such terms as he may with the approval of the Treasury specify, the Secretary of State may appoint the Corporation, the Greater London Council, a district council, a London borough council, the Common Council of the City of London or a local authority within the meaning of section 1 of the Housing (Scotland) Act 1966 to act as

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his agent in connection with the making, in such cases as he may specify, of payments in respect of housing association grant; and where such an appointment is made the Corporation, council or local authority, as the case may be, shall act as such an agent in accordance with the terms of their appointment.

### **31 Management grants for certain housing associations**

- (1) If it appears to the Secretary of State that—
- (a) before 1st January 1973 a housing association provided any dwellings without the assistance of any grant, subsidy or contribution from the Secretary of State or a local authority under any enactment, other than section 93 of the Finance Act 1965 (grants for affording relief from tax), and
  - (b) during the whole or any part of an accounting year of the association beginning on or after that date the dwellings were subject to tenancies to which Part VIII of the Housing Finance Act 1972 or sections 60 to 66 of the Housing (Financial Provisions) (Scotland) Act 1972 applied, being tenancies under which the interest of the landlord belonged to the association, and
  - (c) by reason of the operation of the said Part VIII, or of the said sections 60 to 66, and the association's lack of any other funds, the association has incurred a deficit in that accounting year as a result of its expenditure in connection with those dwellings,
- the Secretary of State may, in accordance with the provisions of this section, pay to the association a grant towards the difference between the income arising to the association from those dwellings in that year and so much of the expenditure incurred by the association in that year as, in the opinion of the Secretary of State, was necessary for the proper management of those dwellings.
- (2) No grant shall be payable under this section in respect of an accounting year of a housing association unless—
- (a) an application in respect of that year is made by the association to the Secretary of State not later than the expiry of the period of 15 months beginning immediately after the end of that year and that application is approved by him; and
  - (b) the application is made with the consent of the Corporation ; and
  - (c) both at the time the application is made and at the time the grant is paid the association is a registered housing association.
- (3) An application under subsection (2) above shall be in such form and contain such information as the Secretary of State may from time to time determine.
- (4) A grant to a housing association under this section shall be paid in a single sum in respect of the year to which it relates; and the amount of any such grant shall be calculated in such manner as the Secretary of State may, with the agreement of the Treasury, determine.
- (5) No grant shall be paid under this section before the operative date, but an application for such a grant may be made before that date.

### **32 Revenue deficit grants for registered housing associations**

- (1) The Secretary of State may, in accordance with the provisions of this section, pay a grant (in this section referred to as a " revenue deficit grant ") to a registered housing association, other than an association falling within paragraph (a) or paragraph (b) of

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section 18(1) above, if the association incurs a deficit on its annual revenue account for an accounting year of the association ending on or after 1st January 1974.

- (2) No revenue deficit grant shall be payable in respect of an accounting year of a registered housing association unless—
  - (a) an application in respect of that year is made by the association to the Secretary of State not later than the expiry of the period of 15 months beginning immediately after the end of that year and that application is approved by him; and
  - (b) the application is in such form and contains such information as the Secretary of State may from time to time determine ; and
  - (c) the application is accompanied by the audited accounts of the association for the accounting year to which the application relates.
- (3) Subject to subsection (4) below, for the purposes of this section, a registered housing association shall be treated as incurring a deficit on its annual revenue account for an accounting year of the association if—
  - (a) the expenditure of the association for that year which, in the opinion of the Secretary of State, is attributable to dwellings provided by the association and any related property and is reasonable and appropriate, having regard to all the circumstances,  
exceeds
  - (b) the income which, in the opinion of the Secretary of State, the association might reasonably be expected to receive in respect of those dwellings and any related property in that year, including any sums received or to be received in respect of that year by way of grant or subsidy under any enactment, other than this section,  
and for this purpose expenditure and income shall be calculated in such manner as the Secretary of State may, with the consent of the Treasury, from time to time determine.
- (4) Notwithstanding anything in subsection (3) above, no account shall be taken for the purposes of this section of so much of any deficit as, in the opinion of the Secretary of State, arises by virtue of any such difference between income and expenditure as is specified in section 31(1) above.
- (5) The revenue deficit grant payable to a registered housing association in respect of any accounting year shall be of such amount as the Secretary of State may determine in relation to that association but shall not be greater than the amount of the excess determined for that year under subsection (3) above.
- (6) If he considers it appropriate to do so the Secretary of State may make payments on account of any revenue deficit grant which he considers is likely to become payable to a registered housing association in respect of any accounting year but, subject thereto, any such grant shall be paid in a single sum in respect of the accounting year to which it relates.
- (7) No revenue deficit grant shall be paid before the operative date but applications for such a grant may be made before that date and such an application may be so made by a housing association notwithstanding that it is not then registered.
- (8) In subsection (3) above "related property", in relation to dwellings provided by a housing association, means property of the association which is provided for the benefit of the persons occupying those dwellings.

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### **33 Hostel deficit grants**

- (1) The Secretary of State may, in accordance with the provisions of this section, make a grant (in this section referred to as a "hostel deficit grant") to any registered housing association which, in relation to a hostel managed by the association, incurs a revenue deficit in respect of an accounting year of the association ending on or after the operative date.
- (2) No hostel deficit grant shall be payable to a registered housing association in respect of any accounting year of the association unless an application in respect of that year is made by the association to the Secretary of State not later than the expiry of the period of 15 months beginning immediately after the end of that year and that application is approved by him.
- (3) For the purposes of this section, a registered housing association shall be treated as incurring, in relation to any hostel managed by them, a revenue deficit in respect of an accounting year of the association if—
  - (a) the expenditure of the association for that year which, in the opinion of the Secretary of State, is attributable to the hostel and reasonable and appropriate having regard to all the circumstances exceeds
  - (b) the income which, in the opinion of the Secretary of State, the association might reasonably be expected to receive in respect of the hostel in that year, including any sums received or to be received in respect of that year by way of grant or subsidy under any enactment, other than this section, and so much as is reasonably attributable to the hostel of any sums received or to be received by the association in respect of that year otherwise than by reference to a specific hostel or purpose,

and for this purpose expenditure and income shall be calculated in such manner as the Secretary of State may, with the consent of the Treasury, from time to time determine.
- (4) In any case where more than one hostel is managed by the same registered housing association and that association makes an application for a hostel deficit grant in respect of any accounting year of the association, the Secretary of State may, if he considers it appropriate to do so, treat all the hostels managed by the association, or any two or more of them, as a single hostel for the purpose of determining whether the association incurs a revenue deficit in respect of that year in relation to those hostels.
- (5) The hostel deficit grant payable to a registered housing association in respect of any accounting year shall be of such amount as the Secretary of State may determine in relation to that association but shall not be greater than the amount of the excess determined for that year under subsection (3) above.
- (6) According as the Secretary of State may determine, a hostel deficit grant payable to a registered housing association in respect of any accounting year shall be payable—
  - (a) in a single sum, or
  - (b) in instalments payable at such times and in such manner as the Treasury may direct,

but, in either case, if the Secretary of State considers that a registered housing association is likely to be entitled to a hostel deficit grant in respect of any accounting year, he may make payments on account of such a grant before the expiry of that year.
- (7) An application under subsection (2) above shall be in such form and contain such information as the Secretary of State may from time to time determine.

### **34 Transfer to Corporation of rights and obligations of Secretary of State in relation to certain advances**

- (1) On and after the appointed day, any rights or obligations of the Secretary of State under an agreement in force immediately before that day under section 7 of the Housing Act 1961 or section 23 of the Housing (Financial Provisions) (Scotland) Act 1968 (in this section referred to respectively as " the principal section " and " the principal Scottish section ") shall, by virtue of this section, become rights or obligations of the Corporation.
- (2) In accordance with subsection (1) above, on and after the appointed day—
  - (a) any reference in any such agreement as is referred to in subsection (1) above to the Secretary of State and any reference in any such agreement which immediately before the appointed day falls to be construed as a reference to the Secretary of State shall be construed as a reference to the Corporation ;
  - (b) in subsections (4), (6) and (7) of the principal section for the word " Minister " there shall be substituted the words " Housing Corporation " and in subsections (3), (6) and (7) of the principal Scottish section for the words " Secretary of State " there shall be substituted the words " Housing Corporation "; and
  - (c) any rights and obligations of the Secretary of State in relation to advances made under those sections (whether or not arising by virtue of any such agreement as is referred to in subsection (1) above) shall become rights and obligations of the Corporation.
- (3) In any case where an advance under the principal section is, immediately before the appointed day, secured by a mortgage of any property in favour of the Secretary of State, the interest of the Secretary of State as mortgagee shall, by virtue of this section (and without any transfer or conveyance), on that day vest in the Corporation.
- (4) In this section " the appointed day " means the day appointed for the coming into operation of this section.

### **35 Existing subsidies and grants for housing associations: transition to housing association grants**

- (1) After the operative date, no approval may be given by the Secretary of State—
  - (a) for the purposes of section 75 of the Housing Finance Act 1972 (the new building subsidy) in respect of any building scheme; or
  - (b) for the purposes of sections 55 and 57 of the Housing (Financial Provisions) (Scotland) Act 1972 (new building subsidy and improvement subsidy) in respect of any building scheme or improvement scheme ; or
  - (c) for the purposes of section 92 of the Housing Finance Act 1972 (hostel subsidy) in respect of a hostel scheme ; or
  - (d) for the purposes of section 21 of the Housing (Financial Provisions) (Scotland) Act 1968 (exchequer contributions for hostels) in respect of the provision of hostels.
- (2) If, before the expiry of the period of one year beginning on the operative date, a registered housing association makes an application for housing association grant in respect of a housing project which is or includes a building scheme or improvement scheme which has been previously approved for the purposes of the said section 75

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or, as the case may be, the said sections 55 and 57 and the Secretary of State gives his approval to that project for the purposes of housing association grant,—

- (a) no further payments of new building subsidy or improvement subsidy shall be made in respect of that approved scheme;
- (b) the Secretary of State may, under section 30(2) above, impose a condition requiring the repayment by the association of all or any payments of new building subsidy or improvement subsidy already made in respect of that approved scheme ; and
- (c) where any such condition as is referred to in paragraph (b) above is so imposed, no account shall be taken under section 29(6)(b) above of any payments received by way of new building subsidy or improvement subsidy which are required to be so repaid.

(3) If, before the operative date, a registered housing association has applied for the approval of the Secretary of State under the said section 75 or the said sections 55 and 57 in respect of a building scheme or improvement scheme or under section 92 of the Housing Finance Act 1972 in respect of a hostel scheme or under section 21 of the Housing (Financial Provisions) (Scotland) Act 1968 in respect of the provision of hostels, and no such approval has been given before that date, then, for the purposes of section 29 above, the application shall be treated—

- (a) as an application for housing association grant in respect of a housing project consisting of that building scheme, improvement scheme or hostel scheme (in England and Wales) or, as the case may be, the provision of hostels (in Scotland), and
- (b) as having been submitted to the appropriate body referred to in section 29(3) above and forwarded by that body to the Secretary of State,

and for the purpose of his consideration of the application for housing association grant, the Secretary of State may require the registered housing association to furnish to him such additional information as he may determine.

(4) A registered housing association may not make an application for housing association grant in respect of a housing project which consists of or includes—

- (a) the carrying out of works comprised in a hostel scheme which, before the operative date, has been approved by the Secretary of State for the purposes of section 92 of the Housing Finance Act 1972, or
- (b) the carrying out of works for the provision of hostels which, before the operative date, have been approved by the Secretary of State for the purposes of section 21 of the Housing (Financial Provisions) (Scotland) Act 1968, or
- (c) the provision or conversion of a building for use as a hostel or part of a hostel in accordance with any such arrangements as are referred to in subsection (2) of section 15 of the Housing (Financial Provisions) Act 1958 or of section 9 of the Housing Act 1961 (grants for hostels),

if, before the operative date, any payment of subsidy under the said section 92 has been made in respect of that hostel scheme or any contribution has been made in respect of the provision of hostels under the said section 21 or, as the case may be, any contribution has been paid in respect of that building under the said section 15.

(5) If, in a case where subsection (4) above does not prevent the making of such an application, a registered housing association makes an application for housing association grant in respect of a housing project falling within that subsection and the Secretary of State gives his approval to that project for the purposes of housing association grant, then, according to the nature of the housing project,—



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- (a) section 92 of the Housing Finance Act 1972 shall cease to have effect with respect to the hostel scheme referred to in paragraph (a) of that subsection ; or
- (b) section 21 of the Housing (Financial Provisions) (Scotland) Act 1968 shall cease to have effect with respect to the provision of hostels referred to in paragraph (b) of that subsection ; or
- (c) section 15 of the Housing (Financial Provisions) Act 1958 shall cease to apply to the building referred to in paragraph (c) of that subsection.

(6) In any case where—

- (a) a registered housing association is a party to any such arrangements as are referred to in subsection (1) of section 21 of the Housing Act 1969 or, in Scotland, subsection (1) of section 16 or section 17 of the Housing (Financial Provisions) (Scotland) Act 1968 (contributions for dwellings provided or improved by housing associations under arrangements with local authorities and, in Scotland, the Secretary of State), and
- (b) before the operative date approval has been given in accordance with subsection (2) of the said section 21 or in accordance with section 14 of the said Act of 1968, as applied by section 17(1)(ii) of that Act, to the making and terms of those arrangements, and
- (c) before the operative date particulars and estimates in respect of works to which those arrangements relate (in this section referred to as a " related project") have been submitted in an application made under subsection (3) of the said section 21 or, as the case may require, have been furnished under section 18 of the said Act of 1968,

the registered housing association may not make an application for housing association grant in respect of a housing project which consists of or includes the carrying out of any of the works comprised in the related project if any contribution under the said section 21 or the said sections 16 and 17 has been paid in relation to the related project before the operative date.

(7) If, in a case falling within paragraphs (a) to (c) of subsection (6) above,—

- (a) the registered housing association concerned makes an application (permitted by that subsection) for housing association grant in respect of a related project, and
- (b) the Secretary of State gives his approval to the related project for the purposes of housing association grant,

section 21 of the Housing Act 1969 or, as the case may be, sections 16 and 17 of the Housing (Financial Provisions) (Scotland) Act 1968 shall cease to have effect with respect to so much of the arrangements concerned as relates to the carrying out of the related project.

(8) In this section—

" building scheme " has the same meaning as in section 75 of the Housing Finance Act 1972 or, in Scotland, section 55 of the Housing (Financial Provisions) (Scotland) Act 1972; and

" hostel scheme " has the same meaning as in section 92 of the Housing Finance Act 1972 ; and

" improvement scheme " has the same meaning as in section 57 of the Housing (Financial Provisions) (Scotland) Act 1972.