



# Housing Associations Act 1985

## 1985 CHAPTER 69

### PART I

#### REGULATION OF HOUSING ASSOCIATIONS

##### *Introductory*

#### **1 Meaning of “housing association” and related expressions.**

- (1) In this Act “housing association” means a society, body of trustees or company—
- which is established for the purpose of, or amongst whose objects or powers are included those of, providing, constructing, improving or managing, or facilitating or encouraging the construction or improvement of, housing accommodation, and
  - which does not trade for profit or whose constitution or rules prohibit the issue of capital with interest or dividend exceeding such rate as may be prescribed by the Treasury, whether with or without differentiation as between share and loan capital [<sup>F1</sup>;

[<sup>F1</sup>but does not include Scottish Homes.]

- (2) In this Act “fully mutual”, in relation to a housing association, means that the rules of the association—
- restrict membership to persons who are tenants or prospective tenants of the association, and
  - preclude the granting or assignment of tenancies to persons other than members;

and “co-operative housing association” means a fully mutual housing association which is a society registered under the <sup>M1</sup>Industrial and Provident Societies Act 1965 (in this part referred to as “the 1965 Act”).

- (3) In this Act “self-build society” means a housing association whose object is to provide, for sale to, or occupation by, its members, dwellings built or improved principally with the use of its members’ own labour.

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*Changes to legislation: There are currently no known outstanding effects for the Housing Associations Act 1985, Part I. (See end of Document for details)*

#### Textual Amendments

**F1** Words added by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), ss. 1, 3(3), [Sch. 2 para. 6](#)

#### Marginal Citations

**M1** [1965 c. 12.](#)

## 2 Meaning of “housing trust”.

In this Act “housing trust” means a corporation or body of persons which—

- (a) is required by the terms of its constituent instrument to use the whole of its funds, including any surplus which may arise from its operations, for the purpose of providing housing accommodation, or
- (b) is required by the terms of its constituent instrument to devote the whole, or substantially the whole, of its funds to charitable purposes and in fact uses the whole, or substantially the whole, of its funds for the purpose of providing housing accommodation.

### [<sup>F2</sup>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.]

#### Textual Amendments

**F2** [S. 2A](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. 1 para. 1](#)

VALID FROM 01/10/1996

### [<sup>F3</sup>2B Meaning of “registered housing association”, “registered social landlord” etc.

In this Act, unless the context otherwise requires—

“registered housing association” means a housing association registered in the register maintained by Scottish Homes under section 3,

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“registered social landlord” has the same meaning as in Part I of the Housing Act 1996, and

“unregistered”, in relation to a housing association, means neither registered in the register maintained by Scottish Homes under section 3 nor registered as a social landlord under Part I of the Housing Act 1996..]

#### Textual Amendments

**F3** S. 2B inserted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 15(2)**

### Registration

#### 3 The register.

(1) A register of housing associations shall be maintained by [<sup>F4</sup>each of the Corporations] and shall be open to inspection at the head office of the Corporation [<sup>F5</sup>by which it is maintained] at all reasonable times.

[<sup>F6</sup>(1A) In this Act “register”, in relation to the Corporation, means the register maintained by the Corporation under this section.]

(2) In this Act “registered” and “unregistered”, and other references to registration, in relation to a housing association, refer to registration in the register . . . <sup>F7</sup>.

#### Textual Amendments

**F4** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 3(1)(a)**

**F5** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 3(1)(b)**

**F6** [S. 3\(1A\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 3(2)**

**F7** Words repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), ss. 59(2)(3)(4), 140(2), [Sch. 6 Pt. 1 para. 3\(3\)](#), **Sch. 18**

#### 4 Eligibility for registration.

(1) A housing association is eligible for registration if it is—

- (a) a registered charity, or
- (b) a society registered under the 1965 Act which fulfils the following conditions.

(2) The conditions are that the association does not trade for profit and is established for the purpose of, or has among its objects or powers, the provision, construction, improvement or management of—

- (a) houses to be kept available for letting, or
- (b) houses for occupation by members of the association, where the rules of the association restrict membership to persons entitled or prospectively entitled (as tenants or otherwise) to occupy a house provided or managed by the association, or
- (c) hostels,

and that any additional purposes or objects are among the following.

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- [<sup>F8</sup>(3) The permissible additional purposes or objects are—
- (a) providing land, amenities or services, or providing, constructing, repairing or improving buildings, for the benefit of the association’s residents, either exclusively or together with other persons;
  - (b) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of on sale, on lease or on shared ownership terms;
  - (c) constructing houses to be disposed of on shared ownership terms;
  - (d) managing houses which are held on leases or other lettings (not being houses falling within subsection (2)(a) or (b) ) or blocks of flats;
  - (e) providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works;
  - (f) encouraging and giving advice on the formation of other housing associations or providing services for, and giving advice on the running of, such associations and other voluntary organisations concerned with housing, or matters connected with housing.
- (4) A housing association shall not be ineligible for registration by reason only that its powers include power—
- (a) to acquire commercial premises or businesses as an incidental part of a project or series of projects undertaken for purposes or objects falling within subsection (2) or (3);
  - (b) to repair, improve or convert any commercial premises acquired as mentioned in paragraph (a) or to carry on, for a limited period, any business so acquired;
  - (c) to repair or improve houses, or buildings in which houses are situated, after the tenants have exercised, or claimed to exercise, acquisition rights;
  - (d) to acquire houses to be disposed of at a discount to tenants to whom section 58 of the Housing Act 1988 applies (tenants of charitable housing associations etc.).
- (5) In this section—
- “acquisition right” means—
- (a) in England and Wales, the right to buy or the right to be granted a shared ownership lease under Part V of the Housing Act 1985;
  - (b) in Scotland, a right to purchase under section 61 of the Housing (Scotland) Act 1987;
- “block of flats” means a building—
- (a) containing two or more flats which are held on leases or other lettings; and
  - (b) occupied or intended to be occupied wholly or mainly for residential purposes;
- “disposed of on shared ownership terms” means—
- (a) in England and Wales, disposed of on a shared ownership lease;
  - (b) in Scotland, disposed of under a shared ownership agreement;
- “letting” includes the grant—
- (a) in England and Wales, of a licence to occupy;
  - (b) in Scotland, of a right or permission to occupy;
- “residents”, in relation to a housing association, means the persons occupying the houses or hostels provided or managed by the association;

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“voluntary organisation” means an organisation whose activities are not carried on for profit.]

#### Textual Amendments

**F8** S. 4(3)–(5) substituted for s. 4(3)(4) (s. 4(4) having been inserted by [Landlord and Tenant Act 1987](#) (c. 31, SIF 75:1), **s. 45(3)** which section 45 was subsequently repealed by [Housing Act 1988](#) (c. 50, SIF 61), s. 140(2), **Sch. 18** by [Housing Act 1988](#) (c. 50, SIF 61) s. 48(1)

#### Modifications etc. (not altering text)

**C1** Ss. 4, 8 modified by [Housing Act 1988](#) (c. 50, SIF 61), **s. 58(3)(4)**

## 5 Registration.

(1) The [<sup>F9</sup>Corporation] register any housing association which is eligible for registration but—

- (a) the Corporation shall establish criteria which should be satisfied by a housing association seeking registration, and
- (b) in deciding whether to register an association the Corporation shall have regard to whether it satisfies those criteria.

[<sup>F10</sup>(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.]

(3) As soon as may be after registering a housing association the Corporation shall give notice of the registration—

- (a) if the association is a registered charity, to the Charity Commissioners, or
- (b) if the association is a society registered under the 1965 Act, to the appropriate registrar,

who shall record the registration.

[<sup>F11</sup>(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.]

#### Textual Amendments

**F9** Words substituted by [Housing Act 1988](#) (c. 50, SIF 61), s. 59(2)(3)(4), **Sch. 6 Pt. 1 para. 2**

**F10** S. 5(2) substituted by [Housing Act 1988](#) (c. 50, SIF 61), s. 59(2)(3)(4), **Sch. 6 Pt. 1 para. 4(1)**

**F11** S. 5(4) substituted by [Housing Act 1988](#) (c. 50, SIF 61), s. 59(2)(3)(4), **Sch. 6 Pt. 1 para. 4(2)**

## 6 Removal from the register.

(1) A body which has been registered shall not be removed from the register except in accordance with this section.

(2) If it appears to the [<sup>F12</sup>Corporation] that a body which is on the register—

- (a) is no longer a housing association eligible for registration, or
- (b) has ceased to exist or does not operate,

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the Corporation shall, after giving the body at least 14 days' notice, remove it from the register.

- (3) In the case of a body which appears to the Corporation to have ceased to exist or not to operate, notice under subsection (2) shall be deemed to be given to the body if it is served at the address last known to the Corporation to be the principal place of business of the body.
- (4) A body which is registered may request the Corporation to remove it from the register if it has not at any time received—
- [<sup>F13</sup>(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)]

and the Corporation may, if it thinks fit, do so.

- (5) As soon as may be after removing a body from the register the Corporation shall give notice of the removal—
- (a) if the body is a registered charity, to the Charity Commissioners,
  - (b) if the body is a society registered under the 1965 Act, to the appropriate registrar,
- who shall record the removal.

#### **Textual Amendments**

**F12** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. 1 para. 2**

**F13** [S. 6\(4\)\(a\)–\(f\)](#) substituted for [s. 6\(a\)–\(c\)](#) by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. 1 para. 5**

## **7 Appeal against removal.**

- (1) A body which is aggrieved by a decision of the [<sup>F14</sup>Corporation] to remove it from the register may appeal against the decision
- [<sup>F15</sup>(a) where it is a decision of Scottish Homes, to the Court of Session; and
  - (b) in any other case, to the High Court].
- (2) If an appeal is brought the Corporation shall not remove the body concerned from the register until the appeal has been finally determined or is withdrawn.
- (3) As soon as may be after an appeal is brought the Corporation shall give notice of the appeal—
- (a) if the body concerned is a registered charity, to the Charity Commissioners, or
  - (b) if the body concerned is a society registered under the 1965 Act, to the appropriate registrar.

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#### Textual Amendments

- F14** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)  
**F15** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 6](#)

### *Disposal of land*

## **8 Power of registered housing associations to dispose of land.**

- (1) Without prejudice to the provisions of Part V of the <sup>M2</sup>Housing Act 1985 (the right to buy [<sup>F16</sup>and [<sup>F17</sup>Part III of the <sup>M3</sup>Housing (Scotland) Act 1987] (analogous Scottish provisions)]), every registered housing association has power, subject to section 9 (control by [<sup>F18</sup>Corporation] of land transactions), by virtue of this section but not otherwise, to dispose, in such manner as it thinks fit, of land held by it.
- (2) Section 39 of the <sup>M4</sup>Settled Land Act 1925 (disposal of land by trustees) does not apply to the disposal of land by a registered housing association; and accordingly the disposal need not be for the best consideration in money that can reasonably be obtained.
- (3) Nothing in subsection (2) shall be taken to authorise any action on the part of a charity which would conflict with the trusts of the charity.

#### Textual Amendments

- F16** Words inserted (S.) by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\)](#), s. 25(1), [Sch. 2 para. 4\(2\)](#)  
**F17** Words substituted (S.) by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), [Sch. 23 para. 31\(1\)](#)  
**F18** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)

#### Modifications etc. (not altering text)

- C2** Ss. 4, 8 modified by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 58(3)(4)

#### Marginal Citations

- M2** 1985 c.68 (61).  
**M3** 1987 c.26 (61).  
**M4** 1925 c. 18.

## **9 Control by [<sup>F19</sup>Corporation] of dispositions of land by housing associations.**

- [<sup>F20</sup>(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) The consent of the Corporation may be so given—

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- (a) generally to all housing associations or to a particular housing association or description of association;
  - (b) in relation to particular land or in relation to a particular description of land; and may be given subject to conditions.
- (3) A disposition by a housing association which requires [<sup>F21</sup>consent] under this section is valid in favour of a person claiming under the association notwithstanding that [<sup>F21</sup>that consent] has not been given; and a person dealing with the association, or with a person claiming under the association, shall not be concerned to see or inquire whether any such consent has been given.

This subsection has effect subject to section 12 (avoidance of certain dispositions of houses without consent).

- (4) Where at the time of its removal from the register under section 6(2) (removal of bodies no longer eligible for registration or defunct) a body owns land, this section continues to apply to that land after the removal as if the body concerned continued to be a registered housing association.
- (5) For the purposes of this section “disposition” means sale, lease, mortgage, charge or any other disposal.

[<sup>F22</sup>(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.]

#### Textual Amendments

- F19** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 2**
- F20** [S. 9\(1\)\(1A\)](#) substituted for s. 9(1) by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 7(1)**
- F21** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 7(2)(a)(b)**
- F22** [S. 9\(6\)](#) added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 7(3)**

#### Modifications etc. (not altering text)

- C3** [S. 9](#) amended by (E.W.) [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 173(6)(7); [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 81(7); modified by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 58(3)(4); excluded by (E.W.) [Housing Act 1988 \(c. 50, SIF 61\)](#) s. 105(6), s 133(6)(7); (Scotland) [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 63(3)
- C4** [S. 9\(1\)\(1A\)](#) excluded (E.W.) (1.11.1993) by [1993 c. 28, s. 37](#), **Sch. 10 para. 1(2)(b)** (with ss. 56(6), 94(2), 95); S.I. 1993/2134, **art.5**.

## 10 Dispositions excepted from s. 9.

- (1) A disposition by an unregistered housing association which is a charity is not within section 9 if by virtue of section 29 of the <sup>M5</sup>Charities Act 1960 it cannot be made without an order of the court or the Charity Commissioners; but [<sup>F23</sup>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.]



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- (2) A letting by a registered housing association, or by an unregistered housing association which is a housing trust, is not within section 9 if it is—
- (a) a letting of land under a secure tenancy, or
  - (b) a letting of land under what would be a secure tenancy but for any of paragraphs 2 to 12 of [<sup>F24</sup>Schedule 3 to the Housing Act 1985][<sup>F24</sup>Schedule 1 to the Housing Act 1985] or paragraphs [<sup>F25</sup>paragraphs 1 to 8 of Schedule 2 to the Housing (Scotland) Act 1987](tenancies excepted from being secure tenancies for reasons other than that they are long leases) [<sup>F26</sup>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.]
- (3) The grant by an unregistered housing association which does not satisfy the landlord condition in section 80 of the Housing Act 1985 (bodies which are capable of granting secure tenancies) of a lease for a term ending within the period of seven years and three months beginning on the date of the grant is not within section 9 unless—
- (a) there is conferred on the lessee (by the lease or otherwise) an option for renewal for a term which, together with the original term, would expire outside that period, or
  - (b) the lease is granted wholly or partly in consideration of a fine.
- (4) In subsection (3) the expression “lease” includes an agreement for a lease and a licence to occupy, and the expressions “grant” and “term” shall be construed accordingly.

#### Textual Amendments

- F23** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 8\(1\)](#)
- F24** Words beginning “Schedule 1” substituted (E.W.) (*retrospectively* 1.4.1986) for words beginning “Schedule 3” by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. I para. 10\(6\)\(9\)](#)
- F25** Words “1 to 8 of Schedule 2 to the Housing (Scotland) Act 1987” substituted (E.W.S) by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72, [Sch. 9 para. 6\(a\)](#) and “paragraphs 1 to 8 of Schedule 2 to the Housing (Scotland) Act 1987” substituted (S.) by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), [Sch. 23 para. 31\(2\)](#)
- F26** “or” and s. 10(2)(c)–(e) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 8\(2\)](#)

#### Marginal Citations

- M5** 1960 c. 58.

## 11 Further provisions as to certain disposals of houses.

Schedule 2 applies in relation to a disposal of a house under section 8 where—

- (a) a discount is given to the purchaser, or
- (b) the house is situated in a National Park, an area designated under section 87 of the National Parks and Access to the <sup>M6</sup>Countryside Act 1949 as an area

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of outstanding beauty, or an area designated as a rural area by order under section 157 of the <sup>M7</sup>Housing Act 1985.

#### Marginal Citations

**M6** 1949 c. 97.

**M7** 1985 c. 68.

## 12 Avoidance of certain disposals of houses without consent.

A disposal of a house by a housing association made without the consent required by section 9 is void unless—

- (a) the disposal is to an individual (or to two or more individuals), and
- (b) the disposal does not extend to any other house.

*Control of payments to members, etc.*

## 13 Payments by way of gift, dividend or bonus.

(1) A registered housing association shall not make a gift or pay a sum by way of dividend or bonus to—

- (a) a person who is or has been a member of the association, or
- (b) a person who is a member of the family of a person within paragraph (a), or
- (c) a company of which a person within paragraph (a) or (b) is a director, or
- (d) a Scottish firm of which a person within paragraph (a) or (b) is a member,

except as permitted by this section.

(2) The following are permitted—

- (a) the payment of a sum which, in accordance with the rules of the association concerned, is paid as interest on capital lent to the association or subscribed by way of shares in the association;
- (b) the payment by a fully mutual housing association to a person who has ceased to be a member of the association, of a sum which is due to him either under his tenancy agreement with the association or under the terms of the agreement under which he became a member of the association.

(3) Where an association which is a society registered under the 1965 Act pays a sum or makes a gift in contravention of this section the association may recover the sum or the value of the gift, and proceedings for its recovery shall be taken by the association if the [<sup>F27</sup>Corporation] so directs.

#### Textual Amendments

**F27** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. 1 para. 2](#)

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#### **14 Maximum amounts payable by way of fees, expenses, etc.**

- (1) The [<sup>F28</sup>Corporation] may from time to time specify the maximum amounts which may be paid by a registered housing association which is a society registered under the 1965 Act—
- (a) by way of fees or other remuneration, or by way of expenses, to a member of the association who is not a member of its committee or an officer or employee of the association,
  - (b) by way of expenses to a member of its committee (including a co-opted member) who is not an officer or employee of the association, or
  - (c) by way of expenses to an officer of the association who does not have a contract of employment with the association;
- and different amounts may be so specified for different purposes.
- (2) Where such an association makes a payment in excess of the specified maximum, the association may recover the excess and proceedings for its recovery shall be taken by the association if the Corporation so directs.

#### **Textual Amendments**

**F28** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)

#### **15 Payments and benefits to committee members, etc.**

- (1) A registered housing association which is a society registered under the 1965 Act shall not make a payment or grant a benefit to—
- (a) a committee member (including a co-opted member), officer or employee of the association, or
  - (b) a person who at any time within the preceding twelve months has been a person within paragraph (a), or
  - (c) a close relative of a person within paragraph (a) or (b), or
  - (d) a business trading for profit of which a person falling within paragraph (a), (b) or (c) is a principal proprietor or in the management of which such a person is directly concerned,
- except as permitted by this section [<sup>F29</sup>or by section 15A of this Act].
- (2) The following are permitted—
- (a) payments made or benefits granted to an officer or employee under his contract of employment with the association;
  - (b) the payment of expenses to a committee member (including a co-opted member) or to an officer of the association who does not have a contract of employment with the association;
  - (c) any such payment as may be made in accordance with section 13(2) (interest payable in accordance with the rules and certain sums payable by a fully mutual housing association to a person who has ceased to be a member);
  - (d) the grant or renewal of a tenancy by a co-operative housing association;
  - (e) where a tenancy of a house has been granted to, or to a close relative of, a person who later became a committee member (including a co-opted member), officer or employee, the grant to that tenant of a new tenancy, whether of the same or another house.

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- [<sup>F30</sup>(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 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).]

[<sup>F31</sup> The Housing Corporation and Housing for Wales may make different determinations  
<sup>F32</sup>(2A)] 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.]

- (3) Where an association pays a sum or grants a benefit in contravention of this section, the association may recover the sum or the value of the benefit, and proceedings for its recovery shall be taken by the association if the [<sup>F33</sup>Corporation] so directs.

#### Textual Amendments

- F29** Words added (S.) by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\)](#), s. 25(1), **Sch. 2 para. 4(3)**
- F30** [S. 15\(2\)\(f\)\(g\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 9(1)**
- F31** [S. 15\(2A\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 9(2)**
- F32** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 111**
- F33** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 2**

#### [<sup>F34</sup>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—

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

#### Textual Amendments

- F34** S. 15(A) inserted (S.) by Housing (Scotland) Act 1986 (c. 65, SIF 61), s. 14 (which s. 14 was repealed 1.4.1989 by virtue of Housing Act 1988 (c. 50, SIF 61), s. 140(2), Sch. 18: S.I. 1989/404) and as so inserted s. 15A is substituted (1.4.1989: cf. S.I. 1989/404) by virtue of Housing Act 1988 (c. 50, SIF 61), s. 59(2)(3)(4), Sch. 6 Pt. I para. 10

### *Constitution, change of rules, amalgamation and dissolution*

## 16 General power to remove committee member.

- (1) The [<sup>F35</sup>Corporation] may by order remove a committee member of a registered housing association if—
- (a) in England and Wales, he has been adjudged bankrupt or he has made an arrangement with his creditors,
  - (b) in Scotland, he has become notour bankrupt or he has executed a trust deed for behoof of, or has made a composition contract or arrangement with, his creditors,
  - (c) he is incapable of acting by reason of mental disorder,
  - (d) he has not acted, or
  - (e) he cannot be found or does not act and his absence of failure to act is impeding the proper management of the association’s affairs.

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- (2) Before making an order the Corporation shall give at least 14 days' notice of its intention to do so to the person whom it intends to remove, and to the association concerned.
- (3) Notice under subsection (2) may be given by post, and if so given to the person whom the Corporation intend to remove may be addressed to his last known address in the United Kingdom.
- (4) A person who is ordered to be removed under this section may appeal against the <sup>F36</sup>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.]

#### Textual Amendments

**F35** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)

**F36** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 11](#)

## 17 Power to appoint new committee member.

- (1) The <sup>F37</sup>Corporation] may by order appoint a person to be a committee member of a registered housing association—
  - (a) in place of a person removed by the Corporation,
  - (b) where there are no members of the committee, or
  - (c) where the Corporation is of opinion that it is necessary for the proper management of the association's affairs to have an additional committee member <sup>F38</sup>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].
- (2) A person may be so appointed whether or not he is a member of the association and, if he is not, notwithstanding that the rules of the association restrict appointment to members.
- (3) A person appointed under this section shall hold office for such period and on such terms as the Corporation may specify and on the expiry of the appointment the Corporation may renew the appointment for such period as it may specify; but this does not prevent a person appointed under this section from retiring in accordance with the rules of the association.
- (4) A person appointed under this section is entitled—
  - (a) to attend, speak and vote at any general meeting of the association and to receive all notices of and other communications relating to any general meeting which a member of the association is entitled to receive, and
  - (b) to require a general meeting of the association to be convened within 21 days of a request to that effect made in writing to the committee of the association.

#### Textual Amendments

**F37** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)

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**F38** Words added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 12](#)

## 18 Exercise of powers under ss. 16 and 17 in relation to registered charities.

- (1) The [<sup>F39</sup>Corporation] may exercise its powers under sections 16 and 17 (removal or appointment of committee member) in relation to an association which is a registered charity only if the association has, at any time before the powers are exercised, received [<sup>F40</sup>financial assistance under section 24 of the Local Government Act 1988 or] a grant or loan under—
  - [<sup>F41</sup>section 50 of the Housing Act 1988 (housing association grants), section 51 of that Act (revenue deficit grants)]
  - section 41 (housing association grants),
  - section 54 or 55 (revenue deficit grants or hostel deficit grants),
  - section 58(2) (grants or loans by local authorities),
  - section 79 (loans by [<sup>F39</sup>Corporation]),
  - section 31 of the <sup>M8</sup>Housing Act 1974 (management grants), or
  - any enactment mentioned in paragraph 2 or 3 of Schedule 1 (pre-1974 grants and certain loans).
- (2) Sections 16 and 17 apply in relation to a trustee of such an association as they apply in relation to a committee member.
- (3) Before exercising its powers under section 17 (appointment of committee member or trustee) in relation to such an association the Corporation shall consult the Charity Commissioners; . . . <sup>F42</sup>

### Textual Amendments

- F39** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)
- F40** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 24(5)(a)
- F41** Entries inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 13\(1\)](#)
- F42** Words repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), ss. 59(2)(3)(4), 140(2), [Sch. 6 Pt. I para. 13\(2\)](#), [Sch. 18](#)

### Marginal Citations

- M8** 1974 c. 44.

## 19 Change of rules under the 1965 Act.

- (1) This section applies to a registered housing association—
  - (a) which is a society registered under the 1965 Act, and
  - (b) whose registration under this Part has been recorded by the appropriate registrar in accordance with section 5(3).
- (2) Notice shall be sent to the [<sup>F43</sup>Corporation] of a change of the association's name or of the situation of its registered office.
- (3) Any other amendment of the association's rules is not valid without the Corporation's consent, [<sup>F44</sup>given,—
  - (a) in the case of the Housing Corporation or Housing for Wales, by order under the seal of the Corporation; and

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- (b) in the case of Scottish Homes, by notice in writing.]; and a copy of such consent shall be sent with the copies of the amendment required by section 10(1) of the 1965 Act to be sent to the appropriate registrar.
- (4) The 1965 Act applies in relation to the provisions of this section as if they were contained in section 10 of that Act (amendment of registered rules).

#### Textual Amendments

**F43** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)

**F44** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 14](#)

## 20 Change of objects by certain charities.

- (1) This section applies to a registered housing association—
  - (a) which is a registered charity and is not a company incorporated under the Companies Act, and
  - (b) whose registration under this Part has been recorded by the Charity Commissioners in accordance with section 5(3).
- (2) No power contained in the provisions establishing the association as a charity, or regulating its purposes and administration, to vary or add to its objects may be exercised without the consent of the Charity Commissioners, and before giving their consent the Charity Commissioners shall consult the [<sup>F45</sup>Corporation].

#### Textual Amendments

**F45** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)

## 21 Amalgamation and dissolution under the 1965 Act.

- (1) This section applies to a registered housing association—
  - (a) which is a society registered under the 1965 Act, and
  - (b) whose registration under this Part has been recorded by the appropriate registrar in accordance with section 5(3).
- (2) The appropriate registrar shall not register a special resolution which is passed for the purposes of—
  - (a) section 50 of the 1965 Act (amalgamation of societies), or
  - (b) section 51 of that Act (transfer of engagements between societies),
 unless, together with the copy of the resolution, there is sent to him a copy of the [<sup>F46</sup>Corporation]'s consent to the amalgamation or transfer concerned.
- (3) Section 52 of the 1965 Act (power of society to convert itself into, amalgamate with or transfer its engagements to a company registered under the Companies Act) does not apply.
- (4) If the association resolves by special resolution that it be wound up voluntarily under the Companies Act, the resolution has no effect unless—
  - (a) before the resolution was passed the Corporation gave its consent to its passing, and



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- (b) a copy of the consent is forwarded to the appropriate registrar together with the copy of the resolution required to be so forwarded in accordance with the Companies Act.
- (5) If the association is to be dissolved by instrument of dissolution, the appropriate registrar shall not—
  - (a) register the instrument in accordance with section 58(5) of the 1965 Act, or
  - (b) cause notice of the dissolution to be advertised in accordance with section 58(6) of that Act,unless together with the instrument there is sent to him a copy of the Corporation's consent to its making.
- (6) The references in this section to the Corporation's consent [<sup>F47</sup>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.].

#### Textual Amendments

**F46** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)

**F47** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 15](#)

## 22 [<sup>F48</sup>Corporation]'s power to petition for winding up.

- (1) The [<sup>F48</sup>Corporation] may present a petition for the winding up under the Companies Act of a registered housing association to which this section applies
  - [<sup>F49</sup>(a)] on the ground that the association is failing properly to carry out its purposes or objects [<sup>F50</sup>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.]
- (2) This section applies to a registered housing association which is—
  - (a) a company incorporated under the Companies Act, or
  - (b) a society registered under the 1965 Act (to which the winding up provisions of the Companies Act apply in accordance with section 55(a) of the 1965 Act).

#### Textual Amendments

**F48** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)

**F49** “(a)” inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 16](#)

**F50** “or” and s. 22(1)(b) added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 16](#)

## 23 Transfer of net assets on dissolution.

- (1) Where a registered housing association which is a society registered under the 1965 Act is dissolved under that Act, so much of the property of the association as remains after meeting the claims of its creditors and any other liabilities arising on or before the dissolution shall be transferred—
  - (a) to the [<sup>F51</sup>Corporation], or

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- (b) if the Corporation so directs, to such registered housing association as may be specified in the direction,  
 notwithstanding anything in the 1965 Act or in the rules of the association.
- (2) In order to avoid the necessity for the sale of land belonging to the association, and thereby secure the transfer of the land under this section, the Corporation may, if it appears to it appropriate to do so, make payments to discharge such claims or liabilities as are referred to in subsection (1).
- (3) Where the association which is dissolved is a charity, the Corporation may dispose of property transferred to it by virtue of this section only to another registered housing association—
- (a) 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 dissolved association.
- (4) In any other case the Corporation may dispose of property transferred to it by virtue of this section to a registered housing association or to a subsidiary of the Corporation.
- (5) Where property transferred to the Corporation by virtue of this section includes land subject to an existing mortgage or charge (whether in favour of the Corporation or not), the Corporation may, in exercise of its powers under Part III, dispose of the land either—
- (a) subject to that mortgage or charge, or
  - (b) subject to a new mortgage or charge in favour of the Corporation securing such amount as appears to the Corporation to be appropriate in the circumstances.

#### **Textual Amendments**

**F51** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)

### *Accounts and audit*

#### **24 General requirements as to accounts and audit.**

- (1) The Secretary of State may by order lay down accounting requirements for registered housing associations with a view to ensuring that the accounts of every registered housing association—
- (a) are prepared in the requisite form, and
  - (b) give a true and fair view of the state of affairs of the association, so far as its housing activities are concerned, and of the disposition of funds and assets which are, or at any time have been, in its hands in connection with those activities.
- (2) The method by which an association [<sup>F52</sup>which is a registered charity] shall distinguish in its accounts between its housing activities and other activities shall be laid down by orders under subsection (1).
- (3) The accounts of every registered housing association shall comply with the requirements laid down under this section; and the auditor's report shall state, in addition to any other matters which it is required to state, whether in the auditor's opinion the accounts do so comply.

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- (4) Every registered housing association shall furnish to the [<sup>F53</sup>Corporation] a copy of its accounts and auditor's report within six months of the end of the period to which they relate.
- (5) An order under this section—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas [<sup>F54</sup>or for different descriptions of housing associations or housing activities], and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;
- and the provisions of such an order shall not apply in relation to a period beginning before the day on which the order comes into force.
- [<sup>F55</sup>(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.]

#### Textual Amendments

- F52** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 17\(1\)](#)
- F53** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)
- F54** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 17\(2\)](#)
- F55** S. 24(6) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 17\(3\)](#)

## 25 Appointment of auditors by associations registered under the 1965 Act.

Section 4(1) of the <sup>M9</sup>Friendly and Industrial and Provident Societies Act 1968 (obligation to appoint qualified auditors to audit accounts and balance sheet for each year of account) applies to every registered housing association which is a society registered under the 1965 Act, without regard to the volume of its receipts and payments, the number of its members or the value of its assets.

#### Marginal Citations

- M9** 1968 c. 55.

## 26 Accounting requirements for registered housing associations not within the 1965 Act.

- (1) A registered housing association which is a registered charity shall, in respect of its housing activities (and separately from its other activities, if any) be subject to the provisions of Schedule 3 (which impose accounting and audit requirements corresponding to those imposed by the <sup>M10</sup>Friendly and Industrial and Provident Societies Act 1968).
- (2) But this does not affect any obligation of the charity under section 8 of the <sup>M11</sup>Charities Act 1960 (statement of accounts to be transmitted to Charity Commissioners).

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#### Marginal Citations

**M10** 1968 c. 55.

**M11** 1960 c. 58.

## 27 Responsibility for securing compliance with accounting requirements

- (1) Every responsible person, that is to say, every person who—
- (a) is directly concerned with the conduct and management of the affairs of a registered housing association, and
  - (b) is in that capacity responsible for the preparation and audit of accounts,
- shall ensure that section 24 (general requirements as to accounts and audit) and, where applicable, Schedule 3 (accounting requirements for associations not within 1965 Act) are complied with by the association.
- (2) If—
- (a) section 24(4) (furnishing of accounts and auditor’s report) is not complied with, or
  - (b) the accounts furnished to the [<sup>F56</sup>Corporation] under that provision do not comply with the accounting requirements laid down under section 24(1), or
  - (c) Schedule 3, where applicable, is not complied with, [<sup>F57</sup>or
  - (d) section 55(9) of the Housing Act 1988 is not complied with]
- every responsible person, and the association itself, commits a summary offence and is liable on conviction to a fine not exceeding level 3 on the standard scale.
- (3) It is a defence—
- (a) for a responsible person to prove that he did everything that could reasonably have been expected of him by way of discharging the duty imposed by subsection (1);
  - (b) for an association to prove that every responsible person did everything that could reasonably have been expected of him by way of discharging the duty imposed by subsection (1) in relation to the association.
- (4) Proceedings for an offence under this section may in England and Wales be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.

#### Textual Amendments

**F56** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)

**F57** “or” and s. 27(2)(d) added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 18](#)

## [<sup>F58</sup>27A Power of Corporation to monitor associations.

- (1) If at any time required to do so by the Corporation,—
- (a) a registered housing association shall produce to a person authorised in that behalf by the Corporation such books, accounts and other documents relating to the association’s business as may be specified by the Corporation; and

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- (b) any officer, employee or member of the committee of the registered housing association shall provide an explanation of any such books, accounts and other documents.
- (2) Where, by virtue of subsection (1), any books, accounts or other documents are produced to a person authorised in that behalf by the Corporation, he may take copies of or make extracts from them.
- (3) In the application of this section to a registered housing association which is a charity,
  - (a) the reference in subsection (1)(a) to the association's business shall be construed as a reference to its housing activities; and
  - (b) the reference to a member of the committee includes a reference to a trustee of the association.]

#### Textual Amendments

**F58** S. 27A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 182

### *Inquiries into affairs of housing associations*

## 28 Inquiry.

- (1) The [<sup>F59</sup>Corporation] may appoint a person (not a person who is, or at any time has been, a member of [<sup>F60</sup>staff of any of the Corporations]) to conduct an inquiry into the affairs of a registered housing association [<sup>F61</sup>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].
- (2) The appointed person may by notice in writing served on—
  - (a) the association concerned, or
  - (b) any person who is, or has been, an officer, agent or member of the association [<sup>F62</sup>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],require the association or person to produce to him such books, accounts and other documents relating to [<sup>F63</sup>the business of the association or any other such body as is referred to in subsection (1)] and to give him such other information so relating, as he considers necessary for the purposes of the inquiry.
- (3) An association or other person who fails without reasonable excuse to comply with the requirements of a notice under subsection (2) commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.
- [<sup>F64</sup>(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.

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- (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) On completion of the inquiry the appointed person shall make a report to the Corporation on such matters and in such form as the Corporation may specify.
- (5) In this section “agent” includes banker, solicitor and auditor; but nothing in this section requires the disclosure—
- (a) by a solicitor, of a privileged communication made to him in his capacity as solicitor, or
  - (b) by a housing association’s banker, of information as to the affairs of any of their other customers.
- [<sup>F65</sup>(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,—
- (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.]

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*Changes to legislation: There are currently no known outstanding effects for the Housing Associations Act 1985, Part I. (See end of Document for details)*

#### Textual Amendments

- F59** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 59\(2\)\(3\)\(4\), Sch. 6 Pt. I para. 2](#)
- F60** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 59\(2\)\(3\)\(4\), Sch. 6 Pt. I para. 19\(1\)](#)
- F61** Words added by [Housing Act 1988 \(c. 50, SIF 61\), s. 59\(2\)\(3\)\(4\), Sch. 6 Pt. I para. 19\(1\)](#)
- F62** “or” and s. 28(2)(c)(d) added by [Housing Act 1988 \(c. 50, SIF 61\), s. 59\(2\)\(3\)\(4\), Sch. 6 Pt. I para. 19\(2\)](#)
- F63** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 59\(2\)\(3\)\(4\), Sch. 6 Pt. I para. 19\(2\)](#)
- F64** [S.28\(3A\)\(3B\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 59\(2\)\(3\)\(4\), Sch. 6 Pt. I para. 19\(3\)](#)
- F65** [S. 28\(6\)–\(9\)](#) added by [Housing Act 1988 \(c. 50, SIF 61\), s. 59\(2\)\(3\)\(4\), Sch. 6 Pt. I para. 19\(4\)](#)

### 29 Extraordinary audit for purposes of inquiry.

- (1) For the purposes of an inquiry under section 28 [<sup>F66</sup>into the affairs of a registered housing association] the [<sup>F67</sup>Corporation] may require the accounts and balance sheet of the association 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 is under section 7(1) of the <sup>M12</sup>Friendly and Industrial and Provident Societies Act 1968 a qualified auditor for the purposes of that Act, or is under section 7(2) of that Act a qualified auditor in relation to the association concerned.
- (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 section is additional to, and does not affect, any audit made or to be made under any other enactment.

#### Textual Amendments

- F66** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 59\(2\)\(3\)\(4\), Sch. 6 Pt. I para. 20](#)
- F67** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 59\(2\)\(3\)\(4\), Sch. 6 Pt. I para. 2](#)

#### Marginal Citations

- M12** 1968 c. 55.

### 30 General powers exercisable as a result of inquiry or audit.

- (1) Where the [<sup>F68</sup>Corporation] is satisfied, as the result of an inquiry under section 28 or an audit under section 29, that there has been misconduct or mismanagement in the affairs of a registered housing association, it may—
  - (a) by order remove any member of the committee of the association, or any officer, agent or employee of the association, who has been responsible for or privy to the misconduct or mismanagement or has by his conduct contributed to it or facilitated it;
  - (b) by order suspend such a person for up to six months, pending determination whether he should be removed;

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*Changes to legislation: There are currently no known outstanding effects for the Housing Associations Act 1985, Part I. (See end of Document for details)*

- (c) order any bank or other person who holds money or securities on behalf of the association not to part with the money or securities without the approval of the Corporation;
  - (d) by order restrict the transactions which may be entered into, or the nature or amount of the payments which may be made, in the administration of the association without the approval of the Corporation.
- [<sup>F69</sup>(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) Before making an order under subsection (1)(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 association concerned.
- (3) Notice under subsection (2) 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 subsection (1)(a) or suspended under subsection (1)(b) may appeal against the [<sup>F70</sup>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.]
- (5) Where a person is suspended under subsection (1)(b), the Corporation may give directions with respect to the performance of his functions and otherwise as to matters arising from the suspension.
- (6) A person who contravenes an order under subsection (1)(c) commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months or both; but proceedings for such an offence may be brought in England and Wales only by or with the consent of the Corporation or the Director of Public Prosecutions.

#### Textual Amendments

- F68** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)
- F69** [S. 30\(1A\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 21\(1\)](#)
- F70** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 21\(2\)](#)

### 31 Exercise of powers under ss. 28 to 30 in relation to registered charities.

- (1) The [<sup>F71</sup>Corporation] may exercise its powers under sections 28 to 30 (inquiry, audit, &c.) in relation to an association which is a registered charity only if the association



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has, at any time before the powers are exercised, received [<sup>F72</sup>financial assistance under section 24 of the Local Government Act or] a grant or loan under—  
[<sup>F73</sup>section 50 of the Housing Act 1988 (housing association grants),  
section 51 of that Act (revenue deficit grants)]  
section 41 (housing association grants),  
section 54 or 55 (revenue deficit grants or hostel deficit grants),  
section 58(2) (grants or loans by local authorities),  
section 79 (loans by [<sup>F71</sup>Corporation]),  
section 31 of the <sup>M13</sup>Housing Act 1974 (management grants), or  
any enactments mentioned in paragraph 2 or 3 of Schedule 1 (pre-1974 grants and certain loans).

(2) In relation to such an association sections 28 to 30 have effect with the following adaptations—

- (a) references to an officer, agent or member, or to a member of the committee, include a trustee of the association;
- (b) references to the association's business are confined to its housing activities [<sup>F74</sup>and such other activities (if any) of the association as are incidental to or connected with its housing activities];
- (c) references to the association's 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 association's balance sheet;
- (d) a person is a qualified auditor for the purposes of section 29 (extraordinary audit) only if he is an auditor qualified for the purposes of paragraph 3 of Schedule 3.

(3) In relation to such an association the powers conferred on the Corporation by—  
section 28(1) (appointment of person to inquire into association's affairs), and  
section 30(1)(a) and (b) (removal of person in connection with misconduct or mismanagement and suspension with a view to removal),  
are exercisable only after consultation with the Charity Commissioners.

#### Textual Amendments

- F71** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)  
**F72** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 24(5)(a)  
**F73** Entries inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 22\(1\)](#)  
**F74** Words added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 22\(2\)](#)

#### Marginal Citations

- M13** 1974 c. 44.

## 32 Power to direct transfer of land to another housing association or the [<sup>F75</sup>Corporation].

(1) Where, as the result of an inquiry under section 28 or an audit under section 29, the [<sup>F75</sup>Corporation] is satisfied as regards a registered housing association which is a society registered under the 1965 Act—

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- (a) that there has been misconduct or mismanagement in the administration of the association, or
  - (b) that the management of the land belonging to the association would be improved if the land belonging to the association were transferred in accordance with the provisions of this section,
- the Corporation may, with the consent of the Secretary of State, direct the association to make such a transfer.
- (2) Where the association concerned is a charity, the [<sup>F75</sup>Corporation] may only direct a transfer to be made to another registered housing association—
- (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 association concerned.
- (3) In any other case the Corporation may direct a transfer to be made to the Corporation or to another registered housing association.
- (4) A transfer in pursuance of a direction under this section shall be made on the terms that the transferee will pay or undertake to pay to the association concerned such sum (if any) as will be necessary to defray all its proper debts and liabilities (including debts and liabilities secured on the land) after taking into account any money or other assets belonging to the association.
- (5) If it appears to the Corporation likely that the association concerned will as a result of the transfer be dissolved under the 1965 Act, the Corporation shall secure that the costs of the dissolution are taken into account in determining the sum payable to the association under subsection (4).

#### Textual Amendments

**F75** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)

#### *Miscellaneous*

### 33 Recognition of central association.

- (1) The Secretary of State may, if he thinks fit, recognise for the purposes of this section a central association or other body established for the purposes of promoting the formation and extension of housing associations [<sup>F76</sup>in Great Britain or in any part of Great Britain] and of giving them advice and assistance.
- (2) The Secretary of State may make a grant in aid of the expenses of the association or body of such amount as he may, with the approval of the Treasury, determine.

#### Textual Amendments

**F76** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 23](#)

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### [<sup>F77</sup>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.]

#### Textual Amendments

**F77** S. 33A inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 24](#)

### 34 Provision of land by county councils.

- (1) Where a housing association wishes to erect houses which in the opinion of the Secretary of State are required and the local housing authority in whose district the houses are proposed to be built are unwilling to acquire land with a view to selling or leasing it to the association, the county council, on the application of the association, may acquire land for that purpose.
- (2) For that purpose the county council may exercise all the powers of a local housing authority under Part II of the <sup>M14</sup>Housing Act 1985 (provision of housing) in regard to the acquisition and disposal of land; and the provisions of that Act as to the acquisition of land by local housing authorities for the purposes of that Part apply accordingly.

#### Marginal Citations

**M14** 1985 c. 68.

### 35 Housing trusts: power to transfer housing to local housing authority.

- (1) A housing trust may—
  - (a) sell or lease to the local housing authority the houses provided by the trust, or
  - (b) make over to the authority the management of the houses.
- (2) So far as subsection (1) confers power to dispose of land—
  - (a) it does not apply to registered housing associations (on whom power to dispose of land is conferred by section 8);
  - (b) it has effect subject to section 9 (dispositions requiring consent of [<sup>F78</sup>Corporation]) where the housing trust is an unregistered housing association and the land is grant-aided land (as defined in Schedule 1); and
  - (c) it has effect subject to section 29 of the <sup>M15</sup>Charities Act 1960 (dispositions which cannot be made without an order of the court or the Charity Commissioners) where the housing trust is a charity.

#### Textual Amendments

**F78** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), [Sch. 6 Pt. I para. 2](#)

#### Marginal Citations

**M15** 1960 c. 58.

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*Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.*

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### **36 Housing trusts: functions of Secretary of State with respect to legal proceedings.**

- (1) If it appears to the Secretary of State—
  - (a) that the institution of legal proceedings is requisite or desirable with respect to any property belonging to a housing trust, or
  - (b) that the expediting of any such legal proceedings is requisite or desirable,
 he may certify the case to the Attorney-General who may institute legal proceedings or intervene in legal proceedings already instituted in such manner as he thinks proper in the circumstances.
- (2) Before preparing a scheme with reference to property belonging to a housing trust, the court or body which is responsible for making the scheme shall communicate with the Secretary of State and consider any recommendations made by him with reference to the proposed scheme.

#### **[<sup>F79</sup>36A Issue of guidance by the Corporation.**

- (1) In accordance with the provisions of this section, the Corporation may issue guidance with respect to the management of housing accommodation by registered housing associations and, in considering under the preceding provisions of this Part whether action needs to be taken to secure the proper management of an association's affairs or whether there has been mismanagement, the Corporation may have regard (among other matters) to the extent to which any such guidance is being or has been followed.
- (2) Guidance issued under this section may make different provision in relation to different cases and, in particular, in relation to different areas, different descriptions of housing accommodation and different descriptions of registered housing associations.
- (3) Without prejudice to the generality of subsections (1) and (2), guidance issued under this section may relate to—
  - (a) the housing demands for which provision should be made and the means of meeting those demands;
  - (b) the allocation of housing accommodation between individuals;
  - (c) the terms of tenancies and the principles upon which the levels of rent should be determined;
  - (d) standards of maintenance and repair and the means of achieving these standards; and
  - (e) consultation and communication with tenants.
- (4) Guidance issued under this section may be revised or withdrawn but, before issuing or revising any guidance under this section, the Corporation—
  - (a) shall consult such bodies appearing to it to be representative of housing associations as it considers appropriate; and
  - (b) shall submit a draft of the proposed guidance or, as the case may be, the proposed revision to the Secretary of State for his approval.
- (5) If the Secretary of State gives his approval to a draft submitted to him under subsection (4)(b), the Corporation shall issue the guidance or, as the case may be, the revision concerned in such manner as the Corporation considers appropriate for bringing it to the notice of the housing associations concerned.]

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#### Textual Amendments

**F79** S. 36A inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 49

### Supplementary

#### 37 Definitions relating to the 1965 Act and societies registered under it.

In this Part “the 1965 Act” means the <sup>M16</sup>Industrial and Provident Societies Act 1965, and in relation to a society registered under that Act—

“appropriate registrar” has the same meaning as in that Act (where it is defined in section 73(1)(c) by reference to the situation of the society’s registered office);

“committee” means the committee of management or other directing body of the society;

“co-opted member”, in relation to the committee, includes any person co-opted to serve on the committee, whether he is a member of the society or not;

“dissolved under the 1965 Act” means dissolved either as mentioned in section 55(a) of that Act (winding up under the Companies Act) or as mentioned in section 55(b) of that Act (instrument of dissolution).

#### Marginal Citations

**M16** 1965 c. 12.

#### 38 Definitions relating to charities.

In this Part—

- (a) “charity” has the same meaning as in the <sup>M17</sup>Charities Act 1960; and
- (b) “registered charity” means a charity which is registered under section 4 of that Act and is not an exempt charity within the meaning of that Act.

#### Marginal Citations

**M17** 1960 c. 58.

#### 39 Minor definitions.

In this Part—

[<sup>F80</sup>“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.]

“mental disorder” has the same meaning as in the <sup>M18</sup>Mental Health Act 1983 or the <sup>M19</sup>Mental Health (Scotland) Act 1984;

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“secure tenancy” has the same meaning as in section 79 of the <sup>M20</sup>Housing Act 1985 or [<sup>F81</sup>44 of the Housing (Scotland) Act 1987];

“standard scale” has the meaning given by section 75 of the <sup>M21</sup>Criminal Justice Act 1982.

#### Textual Amendments

**F80** Definitions inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 59\(2\)\(3\)\(4\), Sch. 6 Pt. I para. 25](#)

**F81** [S. 39](#): by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\), ss. 335, 339\(2\), Sch. 23 para. 31\(3\)](#) it is provided that in the definition of “secure tenancy” for the words “10 of the Tenants’ Rights, Etc. (Scotland) Act 1980” there shall be substituted (S.) the words “44 of the Housing (Scotland) Act 1987” and by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\), s. 72, Sch. 9 para. 8](#) it is provided that in s. 39, in the definition of “secure tenancy” for the words “section 10 of the Tenants’ Rights Etc. (Scotland) Act 1980” there shall be substituted the words “44 of the Housing (Scotland) Act 1987”

#### Marginal Citations

**M18** 1983 c. 20.

**M19** 1984 c. 36.

**M20** 1985 c. 68.

**M21** 1982 c. 48.

## 40 Index of defined expressions: Part I.

The following Table shows provisions defining or explaining expressions used in this Part (other than provisions defining or explaining an expression used only in the same section or paragraph):—

appropriate registrar (in relation to a society registered under the 1965 Act).	section 37
[ <sup>F82</sup> assured agricultural occupancy]	[ <sup>F82</sup> section 39]
[ <sup>F82</sup> assured tenancy]	[ <sup>F82</sup> section 39]
bank	section 106
charge (in relation to Scotland)	section 106
charity	section 38(a)
committee (in relation to a society registered under the 1965 Act)	section 37
compulsory disposal (in Schedule 2)	paragraph 6 of that Schedule
co-operative housing association	section 1(2)
co-opted member (in relation to the committee of a society registered under the 1965 Act)	section 37
the Companies Act	section 106
[ <sup>F83</sup> the Corporation]	[ <sup>F83</sup> section 2A]

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dissolved under the 1965 Act (in relation to a society registered under that Act)	section 37
district (of a local housing authority)	section 104(2)
dwelling	section 106
eligible for registration (in relation to a housing association)	section 4
exempted disposal (in Schedule 2)	paragraph 5 of that Schedule
friendly society	section 106
fully mutual (in relation to a housing association)	section 1(2)
hostel	section 106
house	section 106
housing activities	section 106
housing association	section 1(1)
<b>F84</b>	<b>F84</b>
housing trust	section 2
insurance company	section 106
local housing authority	section 104
member of family	section 105
mental disorder	section 39
mortgage (in relation to Scotland)	section 106
the 1965 Act	section 37
register, registered, registration and unregistered (in relation to a housing association)	section [F853]
registered charity	section 38(b)
relevant disposal (in Schedule 2)	paragraph 4 of that Schedule
<b>F84</b>	<b>F84</b>
secure tenancy	section 39
shared ownership lease	section 106
[F86shared ownership agreement (in relation to Scotland)]	[F86section 106]
standard scale	section 39
trustee savings bank	section 106

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**Changes to legislation:** *There are currently no known outstanding effects for the Housing Associations Act 1985, Part I. (See end of Document for details)*

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#### **Textual Amendments**

- F82** Entries inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 26(a)**
- F83** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 26(b)**
- F84** Entry repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), **Sch. 18**
- F85** Figure substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 26(c)**
- F86** Entry inserted (S.) by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\)](#), s. 25(1), **Sch. 2 para. 4(4)**



**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Housing Associations Act 1985, Part I.