



Housing Associations Act 1985

1985 CHAPTER 69

PART I

REGULATION OF HOUSING ASSOCIATIONS

Registration

[^{F1}3] **The register.**

(1) A register of housing associations shall be maintained by [^{F2}Scottish Homes and shall be open to inspection at the head office of Scottish Homes]]at all reasonable times.

[^{F3}(1A) In this Act “register”, in relation to [^{F4}Scottish Homes], means the register maintained by [^{F4}Scottish Homes] under this section.]

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Textual Amendments

- F1** S. 3 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 232, **Sch. 19 Pt. I**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in Sch.)
- F2** Words in s. 3(1) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 15(3)(a)**
- F3** S. 3(1A) inserted by Housing Act 1988 (c. 50, SIF 61), s. 59(2)(3)(4), **Sch. 6 Pt. I para. 3(2)**
- F4** Words in s. 3(1A) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 15(3)(b)**
- F5** S. 3(2) repealed (1.10.1996) by S.I. 1996/2325, art. 4(1), **Sch. 1 Pt. II** (with art. 4(2)(3))

[^{F6}4] **Eligibility for registration.**

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

[^{F7}a society which has its registered office for the purposes of the 1965 Act in Scotland and]] which fulfils the following conditions.

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(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.

[^{F8}(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.

[in England and Wales, disposing of houses by way of sale at less than market value to residents of the association;]

[^{F9}(ff) in England and Wales, enabling or assisting any residents of theirs—
^{F10}(g) (i) to acquire, or to acquire and enter into occupation of, houses ^{F11} . . . , or
(ii) to procure the construction ^{F12} . . . of separate dwellings for occupation by those residents (whether alone or with other persons), or to procure such construction and enter into occupation of the dwellings so constructed,

by providing grants to or for such residents or, in a case falling within subparagraph (i) above, by entering into assured percentage arrangements with such residents (or partly in the one way and partly in the other).]

(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;

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- (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—

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^{F13} . . . a right to purchase under section 61 of the Housing (Scotland) Act 1987;

[^{F14}“assured percentage arrangements” means arrangements pursuant to which—

- (a) a housing association provides a sum (the “initial capital sum”) to a person who, at the time when the association offers to provide that sum, is a resident of theirs (the “participating resident”) for the purpose of enabling or assisting him to acquire a legal estate in a house ^{F15} . . . ;
- (b) the participating resident, in consideration for the provision of the initial capital sum, enters into an assured percentage covenant with the association; and
- (c) the liability to make any payment required by the assured percentage covenant is secured by a mortgage;

“assured percentage covenant” means a covenant requiring the participating resident in the case of the assured percentage arrangements in question to make to the association at a date (the “discharge date”) determined in accordance with the covenant a payment (the “discharge payment”) calculated by reference to the product of—

- (a) the difference between—
- (i) the initial capital sum, expressed as a percentage of the initial value of the house, and
- (ii) the aggregate of the interim payment percentages (if any), and
- (b) the final value of the house,

“interim payment percentage” meaning, for the purposes of paragraph (a)(ii) above, the amount of any payment accepted by the association before the discharge date, in diminution of the liability to make the discharge payment and in accordance with the terms of the instrument containing the covenant, expressed as a percentage of the proper value of the estate in question as at the time of that acceptance;]

“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—

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^{F13} . . . disposed of under a shared ownership agreement;

[^{F16}“equity percentage arrangements” means arrangements pursuant to which—

- (a) a housing association conveys a legal estate in a house to an individual (the “relevant purchaser”);
- (b) the relevant purchaser, in consideration for that conveyance—

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- (i) makes to the association a payment (the “initial payment”) expressed to represent a percentage of the initial value of the house; and
- (ii) enters into an equity percentage covenant with the association; and
- (c) the liability to make any payment required by the equity percentage covenant is secured by a mortgage;

“equity percentage covenant” means a covenant requiring the relevant purchaser in the case of the equity percentage arrangements in question to make to the association at a date (the “discharge date”) determined in accordance with the covenant a capital payment (the “discharge payment”) determined by reference to that percentage (if any) of the final value of the house which remains after reducing 100 per cent. by the sum of the following percentages, that is to say—

- (a) the percentage of the initial value of the house which the initial payment made pursuant to the equity percentage arrangements in question was expressed to represent, and
- (b) the aggregate of the interim payment percentages (if any),

“interim payment percentage” meaning, for the purposes of paragraph (b) above, the amount of any payment accepted by the association before the discharge date, in diminution of the liability to make the discharge payment and in accordance with the terms of the instrument containing the covenant, expressed as a percentage of the proper value of the estate in question as at the time of that acceptance

“the final value” of a house, in the case of an assured percentage covenant or equity percentage covenant, means the proper value of the estate in question at the time at which the discharge payment required by the covenant falls to be made

“the initial value” of a house means—

- (a) in the case of assured percentage arrangements, the price required to be paid to or at the direction of the vendor for the conveyance of the estate in question to the participating resident; or
- (b) in the case of equity percentage arrangements, an amount agreed between the relevant purchaser and the housing association, before the conveyance of the estate in question to the relevant purchaser, as being the price for which the estate would have been conveyed at that time, with vacant possession, in an arm’s length transaction between a willing buyer and a willing seller on the open market;]

“letting” includes the grant—

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. . .

^{F13} . . . of a right or permission to occupy;

[^{F17}“proper value”, in the case of any estate, means the value of the estate as determined by such person as may be specified or described in, and otherwise in accordance with the terms of, the instrument containing the assured percentage covenant or equity percentage covenant in question;

“qualifying lending institution” means—

- (a) the Corporation;
- (b) a building society, within the meaning of the Building Societies Act 1986^{F18},
- (c) a bank;
- (d) an insurance company; or

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(e) a friendly society;]

“residents”, in relation to a housing association, means the persons occupying the houses or hostels provided or managed by the association;

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

[^{F19}(6) a mortgage securing a person’s liability to make any payment required by an assured percentage covenant or equity percentage covenant shall, by virtue of this subsection, have priority immediately after any legal charge securing an amount advanced to that person by a qualifying lending institution—

(a) for the purpose of enabling him to acquire the estate in question; or

(b) with the written consent of the housing association, for the purpose of enabling him to carry out any improvement to the house in question.]

Textual Amendments

- F6** S. 4 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 232, **Sch. 19 Pt. I**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in Sch.)
- F7** Words in s. 4(1) substituted (1.10.1996) by S.I. 1996/2325, **art. 5(1)**, **Sch. 2 para. 15(4)**
- 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)
- F9** S. 4(3)(ff) inserted (E.W.) (1.4.1996) by S.I. 1996/592, **art. 2(2)(a)**
- F10** S. 4(3)(g) added (E.W.) (8.12.1994) by S.I. 1994/2895, **art. 2(2)**
- F11** Words in s. 4(3)(g)(i) omitted (E.W.) (1.4.1996) by virtue of S.I. 1996/592, **art. 2(2)(b)**
- F12** Words in s. 4(3)(g)(ii) omitted (E.W.) (1.4.1996) by virtue of S.I. 1996/592, **art. 2(2)(c)**
- F13** S. 4(5): words in paras. (a), (b); (a)(i)(ii), (b) and (a), (b) respectively of definitions of “acquisition right”, “disposed of on shared ownership terms” and “letting” repealed (1.10.1996) by S.I. 1996/2325, **art. 4(1)**, **Sch. 1 Pt. II** (with savings in **art. 4(2)(3)**)
- F14** S. 4(5): definitions inserted (E.W.) (8.12.1994) by S.I. 1994/2895, **art. 2(3)**
- F15** S. 4(5): words in para. (a) of definition of “assured percentage arrangements” omitted (E.W.) (1.4.1996) by virtue of S.I. 1996/592, **art. 2(3)**
- F16** S. 4(5): definitions inserted (E.W.) (8.12.1994) by S.I. 1994/2895, **art. 2(5)**
- F17** S. 4(5): definitions inserted (E.W.) (8.12.1994) by S.I. 1994/2895, **art. 2(6)**
- F18** 1986 c.53.
- F19** S. 4(6) added (E.W.) (8.12.1994) by S.I. 1994/2895, **art. 2(7)**

Modifications etc. (not altering text)

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

[^{F20}5 Registration.

(1) [^{F21}Scottish Homes]]register any housing association which is eligible for registration but—

(a) [^{F21}Scottish Homes] shall establish criteria which should be satisfied by a housing association seeking registration, and

(b) in deciding whether to register an association [^{F21}Scottish Homes]shall have regard to whether it satisfies those criteria.

[^{F22}(2) Scottish Homes may vary any criteria established by it under subsection (1).]

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- (3) As soon as may be after registering a housing association [F21Scottish Homes] 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.

- [F23(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

- F20** S. 5 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 232, **Sch. 19 Pt. I**; S.I. 1996/2402, **art. 3** (with transitional provisions and savings in **Sch.**)
- F21** Words in s. 5(1)(3) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 15(5)(a)**
- F22** S. 5(2) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 15(5)(b)**
- F23** S. 5(4) substituted by **Housing Act 1988 (c. 50, SIF 61)**, s. 59(2)(3)(4), **Sch. 6 Pt. I para. 4(2)**

[F246 **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 [F25Scottish Homes]] 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,
 [F25Scottish Homes] 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 [F25Scottish Homes] 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 [F25Scottish Homes] to be the principal place of business of the body.
- (4) A body which is registered may request [F25Scottish Homes] to remove it from the register if it has not at any time received—
 - [F26(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 [F25Scottish Homes] may, if it thinks fit, do so.
- (5) As soon as may be after removing a body from the register [F25Scottish Homes] shall give notice of the removal—

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F27 . . .
F27 . . . to the appropriate registrar,
who shall record the removal.

Textual Amendments

- F24** S. 6 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 232, **Sch. 19 Pt. I**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in Sch.)
- F25** Words in s. 6(2)-(5) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 15(6)**
- F26** 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. I para. 5**
- F27** Words in s. 6(5) repealed (1.10.1996) by S.I. 1996/2325, art. 4(1), **Sch. 1 Pt. II** (with art. 4(2)(3))

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Appeal against removal.

- (1) A body which is aggrieved by a decision of [F29 Scottish Homes] to remove it from the register may appeal against the decision [F30 to the Court of Session]
- (2) If an appeal is brought [F31 Scottish Homes] 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 [F31 Scottish Homes] shall give notice of the appeal—
F32 . . .
F32 . . . to the appropriate registrar.]

Textual Amendments

- F28** S. 7 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 232, **Sch. 19 Pt. I**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in Sch.)
- F29** Words in s. 7(1) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 15(7)(a)(i)**
- F30** Words in s. 7(1) substituted for s. 7(1)(a)(b) (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 15(7)(a)(ii)**
- F31** Words in s. 7(2)(3) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 15(7)(b)**
- F32** Words in s. 7(3) repealed (1.10.1996) by S.I. 1996/2325, art. 4(1), **Sch. 1 Pt. II** (with savings in art. 4(2)(3))

Status:

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Changes to legislation:

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