

Status: Point in time view as at 01/10/2022.

Changes to legislation: Housing (Scotland) Act 1988, SCHEDULE 1 is up to date with all changes known to be in force on or before 06 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

^{F1}SCHEDULE 1

Textual Amendments

- F1** Sch. 1 repealed (1.11.2001) by 2001 asp 10, s. 112, Sch. 10 para. 14(10); S.S.I. 2001/397, art. 2(2), Sch. Table (subject to transitional provisions in arts. 3-6)

Incorporation

- 1 Scottish Homes shall be a body corporate and shall have a common seal.

Status

- 2 Scottish Homes shall be a public body for the purposes of the Prevention of Corruption Acts 1889 to 1916.
- 3 It shall not—
- (a) be regarded as a servant or agent of the Crown;
 - (b) have any status, immunity or privilege of the Crown;
 - (c) be exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local,
- and its property shall not be regarded as property of, or held on behalf of, the Crown.

Membership

- 4 (1) The members of Scottish Homes shall be—
- (a) not more than 9 persons appointed by the Secretary of State; and
 - (b) its chief executive (whose membership shall be ex officio).
- (2) The Secretary of State shall—
- (a) satisfy himself, before he appoints a person to be a member, that that person will have no such financial or other interest as is likely to affect prejudicially the performance of his functions as a member; and
 - (b) satisfy himself from time to time with respect to each member that he has no such interest,
- and a person who is a member or whom the Secretary of State proposes to appoint as a member shall, whenever requested by the Secretary of State to do so, furnish the Secretary of State with such information as he may consider necessary for the purpose of carrying out his duty under this paragraph.
- 5 (1) The members of Scottish Homes (other than the chief executive) shall, subject to the following provisions, hold and vacate office in accordance with the terms of their appointment.

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- (2) A member may resign his membership by written notice to the Secretary of State.
- (3) The Secretary of State may remove a member from office if he is satisfied that that member—
- (a) has been adjudged bankrupt, or made an arrangement with his creditors, or had his estate sequestrated, or granted a trust deed for his creditors or a composition contract;
 - (b) is incapacitated by physical or mental illness;
 - (c) has been absent from meetings of Scottish Homes for a period longer than 3 consecutive months without the permission of Scottish Homes;
 - (d) is otherwise unable or unfit to discharge the functions of a member, or is unsuitable to continue as a member.

Chairman and Deputy Chairmen

- 6 (1) The Secretary of State shall appoint one of the members of Scottish Homes to be chairman and may appoint one or more to be deputy chairman or deputy chairmen; and the chairman and deputy chairmen shall, subject to the following provisions, hold and vacate those offices in accordance with the terms of their appointment.
- (2) The chairman or a deputy chairman may resign his office by written notice to the Secretary of State.
- (3) If the chairman or a deputy chairman ceases to be a member of Scottish Homes, he also ceases to be chairman or a deputy chairman.

Remuneration, Allowances and Pensions

- 7 (1) The Secretary of State may pay the chairman, a deputy chairman and members (other than the chief executive) of Scottish Homes such remuneration as he may ^{F2} . . . determine.
- (2) Scottish Homes may pay them such reasonable allowances as may be so determined in respect of expenses properly incurred by them in the performance of their duties.
- (3) Where a person (other than the chief executive) ceases to be a member of Scottish Homes otherwise than on the expiry of his term of office, and it appears to the Secretary of State that there are special circumstances which might make it right for that person to receive compensation, the Secretary of State may ^{F2} . . . direct Scottish Homes to make that person a payment of such amount as the Secretary of State may ^{F2} . . . determine.

Textual Amendments

F2 Words in [Sch. 1 para. 7\(1\)\(3\)](#) repealed (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, [Sch. 2 Pt. I para. 92\(9\)\(a\)](#), Pt. IV (with art. 5)

- 8 The Secretary of State may ^{F3} . . . determine to pay in respect of a person's office as chairman, deputy chairman or member (other than the chief executive) of Scottish Homes—
- (a) such pension, allowance or gratuity to, or in respect of, that person on his retirement or death as may be so determined; or

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- (b) such contribution or other payments towards provision for such pension, allowance or gratuity as may be so determined.

Textual Amendments

- F3** Words in [Sch. 1 para. 8](#) repealed (1.7.1999) by [S.I. 1999/1820, arts. 1\(2\), 4, Sch. 2 Pt. I para. 92\(9\)\(b\), Pt. IV](#) (with [art. 5](#))

Staff

- 9 The Secretary of State shall, after consultation with the chairman or person designated to be chairman, make the first appointment of the chief executive of Scottish Homes on such terms and conditions as he may ^{F4} . . .determine; and thereafter Scottish Homes may, with the approval of the Secretary of State, make subsequent appointments to that office on such terms and conditions as it may, with the approval of the Secretary of State ^{F5} . . .determine.

Textual Amendments

- F4** Words in [Sch. 1 para. 9](#) repealed (1.7.1999) by [S.I. 1999/1820, arts. 1\(2\), 4, Sch. 2 Pt. I para. 92\(9\)\(b\), Pt. IV](#) (with [art. 5](#))
- F5** Words in [Sch. 1 para. 9](#) repealed (1.7.1999) by [S.I. 1999/1820, arts. 1\(2\), 4, Sch. 2 Pt. I para. 92\(9\)\(c\), Pt. IV](#) (with [art. 5](#))

- 10 (1) Subject to paragraph 11 below, Scottish Homes may appoint on such terms and conditions as it may, with the approval of the Secretary of State ^{F6} . . . determine, such other employees as it thinks fit.
- (2) Scottish Homes shall, in respect of such of its employees as it may determine, with the approval of the Secretary of State ^{F6} . . .make such arrangements for providing pensions, allowances or gratuities as it may determine; and such arrangements may include the establishment and administration, by Scottish Homes or otherwise, of one or more pension schemes.
- (3) The reference in sub-paragraph (2) above to pensions, allowances or gratuities in respect of employees of Scottish Homes includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any such employee who suffers loss of office or employment or loss or diminution of emoluments.
- (4) The Secretary of State ^{F7} . . . may, by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, make regulations providing for—
- (a) the transfer to, and administration by, Scottish Homes of any superannuation fund maintained by the Scottish Special Housing Association in terms of the provisions of any scheme made under section 7 of the ^{M1}Superannuation Act 1972;
- (b) the modification, for the purposes of the regulations, of the said section 7 or any scheme thereunder.
- (5) If an employee of Scottish Homes becomes a member of Scottish Homes and was by reference to his employment by Scottish Homes a participant in a pension scheme administered by it for the benefit of its employees—

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- (a) Scottish Homes may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of Scottish Homes whether or not any benefits are to be payable to or in respect of him by virtue of paragraph 8 above; but
- (b) if Scottish Homes determines as aforesaid, any discretion as to the benefits payable to or in respect of him which the scheme confers on Scottish Homes shall be exercised only with the consent of the Secretary of State^{F8}. . .

Textual Amendments

- F6** Words in Sch. 1 para. 10(1)(2) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 92(9)(c), Pt. IV (with art. 5)
- F7** Words in Sch. 1 para. 10(4) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 92(9)(b), Pt. IV (art. 5)
- F8** Words in Sch. 1 para. 10(5)(b) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 92(9)(d), Pt. IV (with art. 5)

Marginal Citations

- M1** 1972 c. 11.

- 11 (1) Scottish Homes shall, not later than such date as the Secretary of State may determine, make an offer of employment by it to each person employed immediately before that date by—
 - (a) the Scottish Special Housing Association;
 - (b) the Housing Corporation, in connection with its functions in Scotland,
 and any question as to the persons to whom an offer of employment is to be made under this paragraph shall be determined by the Secretary of State.
 - (2) The terms of the offer shall be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.
 - (3) An offer made in pursuance of this paragraph shall not be revocable during the period of 3 months commencing with the date on which it is made.
- 12 (1) Where a person becomes an employee of Scottish Homes in consequence of an offer made under paragraph 11 above, then, for the purposes of [^{F9}the Employment Rights Act 1996], his period of employment with the Scottish Special Housing Association or, as the case may be the Housing Corporation, shall count as a period of employment by Scottish Homes, and the change of employment shall not break the continuity of the period of employment.
 - (2) Where an offer is made in pursuance of paragraph 11(1) above to any person employed as is mentioned in that paragraph, none of the agreed redundancy procedures applicable to such a person shall apply to him and where that person ceases to be so employed—
 - (a) on becoming a member of the staff of Scottish Homes in consequence of that paragraph; or
 - (b) having unreasonably refused the offer,^{F10}. . . he shall not be treated for the purposes of any scheme under section 24 of the ^{M2}Superannuation Act 1972 or any other scheme as having been retired on redundancy.

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- (3) Without prejudice to sub-paragraph (2) above, where a person has unreasonably refused an offer made to him in pursuance of paragraph 11(1)(b) above the Housing Corporation shall not terminate that person's employment unless it has first had regard to the feasibility of employing him in a suitable alternative position with it.
- (4) Where a person continues in employment in the Scottish Special Housing Association or, as the case may be, the Housing Corporation either—
- (a) not having unreasonably refused an offer made to him in pursuance of this paragraph; or
 - (b) not having been placed in a suitable alternative position as mentioned in sub-paragraph (3) above,
- he shall be treated for all purposes as if the offer mentioned in paragraph 11(1) above had not been made.

Textual Amendments

- F9** Words in Sch. 1 para. 12(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, Sch. 1 para. 39 (with ss. 191-195, 202)
- F10** Words in Sch. 1 para. 12(2) repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

Marginal Citations

- M2** 1972 c. 11.

- 13 (1) Any dispute as to whether an offer under sub-paragraph (1) of paragraph 11 above complies with sub-paragraph (2) of that paragraph shall be referred to and be determined by an [F11 employment tribunal].
- (2) An [F11 employment tribunal] shall not consider a complaint referred to it under sub-paragraph (1) above unless the complaint is presented to the tribunal before the end of the period of 3 months beginning with the date of the offer of employment or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the period of 3 months.
- (3) Subject to sub-paragraph (4) below there shall be no appeal from the decision of an [F11 employment tribunal] under this paragraph.
- (4) An appeal to the Employment Appeal Tribunal may be made only on a question of law arising from the decision of, or in proceedings before, an [F11 employment tribunal] under this paragraph.

Textual Amendments

- F11** Words in Sch. 1 para. 13 substituted (1.8.1998) by 1998 c. 8, s. 1(2)(with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

Proceedings

- 14 The quorum of Scottish Homes and the arrangements for its meetings shall be such as it may determine, subject to any directions given by the Secretary of State.

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- 15 (1) A member who is directly or indirectly interested in a contract made or proposed to be made by Scottish Homes, or in any other matter whatsoever which falls to be considered by Scottish Homes, shall disclose the nature of his interest at a meeting of Scottish Homes, and the disclosure shall be recorded in the minutes of the meeting.
- (2) Such a member shall not—
 - (a) in the case of any such contract, take part in any deliberation or decision of Scottish Homes with respect to the contract; and
 - (b) in the case of any other matter, take part in any deliberation or decision of Scottish Homes with respect to it if Scottish Homes decides that the interest in question might prejudicially affect the member’s consideration of the matter.
- (3) For the purposes of this paragraph, a notice given by a member at a meeting of Scottish Homes to the effect that he is a member of a specified body corporate or firm and is to be regarded as interested in any contract which is made with the body corporate or firm after the date of the notice, and in any other matter whatsoever concerning the body corporate or firm which falls to be considered by Scottish Homes after that date, shall be a sufficient disclosure of his interest.
- (4) A member need not attend in person a meeting of Scottish Homes in order to make a disclosure which he is required to make under this paragraph, if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration at such a meeting.
- 16 The validity of any proceedings of Scottish Homes shall not be affected by any vacancy among its members or by any defect in the appointment of a member or by any failure to comply with any requirement of paragraph 15 above.

Committees

- 17 (1) For and in connection with the discharge of its general functions or powers Scottish Homes may establish such committees (whose members need not be members of Scottish Homes) as appear to it to be appropriate, and the composition and remit of such committees and the terms on which their members hold office shall be determined by Scottish Homes.
- (2) Scottish Homes shall pay to members of any committee established under subparagraph (1) above who are not members of Scottish Homes travelling and other allowances, including compensation for loss of remunerative time, in accordance with arrangements to be determined by the Secretary of State^{F12}. . . .

Textual Amendments

F12 Words in [Sch. 1 para. 17\(2\)](#) repealed (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, [Sch. 2 Pt. I para. 92\(9\)\(a\)](#), [Pt. IV](#) (with art. 5)

Execution of Documents

^{F13}18

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Textual Amendments

F13 Sch. 1 para. 18 repealed (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), **Sch. 5** (with ss. 9(3)(5)(7), 13, 14(3))

^{F14}19

Textual Amendments

F14 Sch. 1 para. 19 repealed (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), **Sch. 5** (with ss. 9(3)(5)(7), 13, 14(3))

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