

*Status: Point in time view as at 15/10/2013.*

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## SCHEDULES

### SCHEDULE 8 **E+W**

Section 62(5).

#### HOUSING ACTION TRUSTS: FINANCE ETC.

##### PART I **E+W**

###### PRELIMINARY

- 1 (1) References in this Schedule to a trust are to a housing action trust.
- (2) The financial year of a trust shall begin with 1 April and references to a financial year in relation to a trust shall be construed accordingly.

##### PART II **E+W**

###### FINANCE

###### *Financial duties*

- 2 (1) After consultation with a trust, the Secretary of State may, with the Treasury's approval, determine the financial duties of the trust, and different determinations may be made in relation to different trusts or for different functions and activities of the same trust.
- (2) The Secretary of State shall give the trust notice of every determination, and a determination may—
  - (a) relate to a period beginning before the date on which it is made;
  - (b) contain incidental or supplementary provisions; and
  - (c) be varied by a subsequent determination.

###### *Government grants*

- 3 (1) The Secretary of State may (out of moneys provided by Parliament and with the consent of the Treasury) pay to a trust, in respect of the exercise of its functions and in respect of its administrative expenses, such sums as he may (with the approval of the Treasury) determine.
- (2)  
The payment may be made on such terms as the Secretary of State (with the approval of the Treasury) provides.

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### *Borrowing*

- 4 (1) A trust may borrow temporarily, by way of overdraft or otherwise, such sums as it may require for meeting its obligations and discharging its functions—
- (a) in sterling from the Secretary of State; or
  - (b) with the consent of the Secretary of State, or in accordance with any general authority given by the Secretary of State, either in sterling or in currency other than sterling from a person other than the Secretary of State.
- (2) A trust may borrow otherwise than by way of temporary loan such sums as the trust may require—
- (a) in sterling from the Secretary of State; or
  - (b) with the consent of the Secretary of State, in a currency other than sterling from a person other than the Secretary of State.
- (3) The Secretary of State may lend to a trust any sums it has power to borrow from him under sub-paragraph (1) or sub-paragraph (2) above.
- (4)
- The Treasury may issue to the Secretary of State out of the National Loans Fund any sums necessary to enable him to make loans under sub-paragraph (3) above.
- (5) Loans made under sub-paragraph (3)
- above shall be repaid to the Secretary of State at such times and by such methods, and interest on the loans shall be paid to him at such times and at such rates, as he may determine.
- (6) All sums received by the Secretary of State under sub-paragraph (5)
- above shall be paid into the National Loans Fund.
- (7)
- References in this paragraph to the Secretary of State are references to him acting with the approval of the Treasury.

### *Guarantees*

- 5 (1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of and the payment of interest on any sums which a trust borrows from a person or body other than the Secretary of State.
- (2) Immediately after a guarantee is given under this paragraph, the Treasury shall lay a statement of the guarantee before each House of Parliament; and, where any sum is issued for fulfilling a guarantee so given, the Treasury shall lay before each House of Parliament a statement relating to that sum, as soon as possible after the end of each financial year, beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged.
- [<sup>F1</sup>(3) Any sums required for fulfilling a guarantee under this paragraph shall be charged on and issued out of—
- (a) the Consolidated Fund, if required by the Treasury, or
  - (b) the Welsh Consolidated Fund, if required by the Welsh Ministers.]

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- (4) If any sums are issued in fulfilment of a guarantee given under this paragraph, the trust shall make to the Treasury, at such times and in such manner as the Treasury may from time to time direct, payments of such amounts as the Treasury so direct in or towards repayment of the sums so issued and payments of interest, at such rates as the Treasury so direct, on what is outstanding for the time being in respect of sums so issued.
- (5) Any sums received by the Treasury in pursuance of sub-paragraph (4) above shall be paid into the Consolidated Fund.

#### Textual Amendments

- F1** Sch. 8 para. 5(3) substituted (1.4.2007) by Government of Wales Act. 2006 (c. 32), ss. 160, 161(3), {Sch. 10 para. 33} (with savings and transitional provisions in Sch. 11 para. 22)

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

- C1** Sch. 8 para. 5(3) modified (temp) by Government of Wales Act 2006 (c. 32), ss. 160, 161(3), **Sch. 11 para. 59(c)** (with savings and transitional provisions in Sch. 11 para. 22)

#### *Assumed debt*

- 6 (1) On any acquisition to which this paragraph applies, a trust shall assume a debt to the Secretary of State of such amount as may be notified to the trust in writing by him, with the approval of the Treasury.
- (2) This paragraph applies to any acquisition by the trust of property held—
- by or on behalf of the Crown; or
  - by a company all of whose shares are held by or on behalf of the Crown or by a wholly owned subsidiary of such a company.
- (3) Subject to sub-paragraph (4) below, the amount to be notified is the aggregate of the following—
- the consideration given when the property was first brought into public ownership; and
  - the costs and expenses of and incidental to its being brought into public ownership.
- (4) If it appears to the Secretary of State that there has been such a change in circumstances since the property was first brought into public ownership that its true value would not be reflected by reference to the consideration mentioned in sub-paragraph (3) above, the Secretary of State, with the approval of the Treasury, shall determine the amount to be notified.
- (5) The rate of interest payable on the debt assumed by a trust under this paragraph, and the date from which interest is to begin to accrue, the arrangements for paying off the principal, and the other terms of the debt shall be such as the Secretary of State, with the approval of the Treasury, may from time to time determine.
- (6) Different rates and dates may be determined under sub-paragraph (5) above with respect to different portions of the debt.
- (7) Any sums received by the Secretary of State under sub-paragraph (5)

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above shall be paid into the National Loans Fund.

*Surplus funds*

- 7 (1) Where it appears to the Secretary of State, after consultation with the Treasury and the trust, that a trust has a surplus, whether on capital or on revenue account, after making allowance by way of transfer to reserve or otherwise for its future requirements, the trust shall, if the Secretary of State with the approval of the Treasury and after consultation with the trust so directs, pay to the Secretary of State such sum not exceeding the amount of that surplus as may be specified in the direction.

(2)

Any sum received by the Secretary of State under this paragraph shall, subject to sub-paragraph (4) below, be paid into the Consolidated Fund.

(3)

The whole or part of any payment made to the Secretary of State by a trust under sub-paragraph (1) above shall, if the Secretary of State with the approval of the Treasury so determines, be treated as made by way of repayment of such part of the principal of loans under paragraph 4(3) above, and as made in respect of the repayments due at such times, as may be so determined.

- (4) Any sum treated under sub-paragraph (3)

above as a repayment of a loan shall be paid by the Secretary of State into the National Loans Fund.

*Financial limits*

- 8 (1) The aggregate amount of the sums mentioned in sub-paragraph (2) below shall not exceed such sum as the Secretary of State, with the consent of the Treasury, may by order made by statutory instrument specify.

- (2) The sums are—

- (a) sums borrowed by all trusts under paragraph 4 above minus repayments made in respect of the sums; and
- (b) sums issued by the Treasury in fulfilment of guarantees under paragraph 5 above of debts of all trusts.

- (3) No order shall be made under sub-paragraph (1) above unless a draft of it has been laid before, and approved by a resolution of, the House of Commons.

*Grants and loans: accounts*

- 9 (1) The Secretary of State shall prepare in respect of each financial year an account—
- (a) of the sums paid to trusts under paragraph 3 above;
  - (b) of the sums issued to him under paragraph 4(4) above and the sums received by him under paragraph 4(5) above and of the disposal by him of those sums; and
  - (c) of the sums paid into the Consolidated Fund or National Loans Fund under paragraph 7 above.

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- (2) The Secretary of State shall send the account to the Comptroller and Auditor General before the end of the month of November next following the end of that year.
- (3) The Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it and of his report before each House of Parliament.
- (4) The form of the account and the manner of preparing it shall be such as the Treasury may direct.

### PART III **E+W**

#### GENERAL ACCOUNTS ETC.

##### *Accounts*

- 10 (1) A trust shall keep proper accounts and other records in relation to them.
- (2) The accounts and records shall show, in respect of the financial year to which they relate, a true and fair view of the trust's activities.
- (3) A trust shall prepare in respect of each financial year a statement of accounts complying with any requirement which the Secretary of State has (with the consent of the Treasury) notified in writing to the trust relating to—
  - (a) the information to be contained in the statement;
  - (b) the manner in which the information is to be presented; and
  - (c) the methods and principles according to which the statement is to be prepared.
- (4) Subject to any requirement notified to the trust under sub-paragraph (3) above, in preparing any statement of accounts in accordance with that sub-paragraph the trust shall follow, with respect to each of the matters specified in paragraphs (a) to (c) of that sub-paragraph, such course as may for the time being be approved by the Secretary of State with the consent of the Treasury.
- (5) Section 6 of the <sup>M1</sup>National Audit Act 1983 (which enables the Comptroller and Auditor General to conduct examinations into the economy, efficiency and effectiveness with which certain departments, authorities and bodies have used their resources) shall apply to a trust.

#### Marginal Citations

**M1** 1983 c. 44.

##### *Audit*

- 11 (1) The trust's accounts and statements of accounts shall be audited by an auditor to be appointed annually by the Secretary of State in relation to the trust.
- [<sup>F2</sup>(2) A person shall not be appointed under sub-paragraph (1) above unless he is eligible for appointment as a [<sup>F3</sup>statutory auditor under Part 42 of the Companies Act 2006].]

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- (3) A person shall not be qualified for appointment under sub-paragraph (1) above if the person is—
  - (a) a member, officer or servant of the trust,
  - (b) a partner of, or employed by, a member, officer or servant of the trust, <sup>F4</sup> . . .
  - <sup>F4</sup>(c) . . . . .

**Textual Amendments**

**F2** Sch. 8 para. 11(2) substituted by S.I. 1991/1997, reg. 2, **Sch. para. 71(a)** (with reg. 4)

**F3** Words in Sch. 8 para. 11(2) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1), **Sch. 1 para. 1(II)** (with arts. 6, 11, 12)

**F4** Words in Sch. 8 para. 11(3) omitted by virtue of S.I. 1991/1997, reg. 2, **Sch. para. 71(b)** (with reg. 4)

*Transmission to Secretary of State*

- 12 As soon as the accounts and statement of accounts of the trust for any financial year have been audited, the trust shall send to the Secretary of State a copy of the statement, together with a copy of any report made by the auditor on the statement or on the accounts.

*Reports*

- 13 (1) As soon as possible after the end of each financial year, a trust shall make to the Secretary of State a report dealing generally with the trust’s operations during the year, and shall include in the report a copy of its audited statement of accounts for that year.
- (2) Without prejudice to the generality of sub-paragraph (1) above, a report shall give particulars of the name and address of every person who, in the financial year to which the report relates, has received financial assistance from the trust under section 71(1) of this Act, together with particulars of the form of the assistance, the amount involved and the purpose for which the assistance was given.
- (3) The Secretary of State shall lay a copy of the report before each House of Parliament.

*Information*

- 14 Without prejudice to paragraph 13 above, a trust shall provide the Secretary of State with such information relating to its activities as he may require, and for that purpose shall permit any person authorised by the Secretary of State to inspect and make copies of the accounts, books, documents or papers of the trust and shall afford such explanation of them as that person or the Secretary of State may reasonably require.

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