

*Status: Point in time view as at 23/08/1996. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: Housing Act 1996, SCHEDULE 1 is up to date with all changes known to be in force on or before 07 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

### SCHEDULE 1

Section 7.

#### REGISTERED SOCIAL LANDLORDS: REGULATION

#### PART I

#### CONTROL OF PAYMENTS TO MEMBERS, &C

VALID FROM 01/10/1996

#### *Payments by way of gift, dividend or bonus*

- 1 (1) A registered social landlord 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 body,
  - (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,
- except as permitted by this paragraph.
- (2) The following are permitted—
- (a) the payment of a sum which, in accordance with the constitution or rules of the body, is paid as interest on capital lent to the body or subscribed by way of shares in the body;
  - (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 industrial and provident society or a company registered under the <sup>M1</sup>Companies Act 1985 pays a sum or makes a gift in contravention of this paragraph, the society or company may recover the sum or the value of the gift, and proceedings for its recovery shall be taken if the Corporation so directs.

#### Marginal Citations

M1 1985 c. 6.

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*Payments and benefits to officers and employees, &c.*

- 2 (1) A registered social landlord which is an industrial and provident society or a company registered under the Companies Act 1985 shall not make a payment or grant a benefit to—
- (a) an officer or employee of the society or company,
  - (b) a person who at any time within the preceding twelve months has been a person within paragraph (a),
  - (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 paragraph.
- (2) The following are permitted—
- (a) payments made or benefits granted to an officer or employee of the society or company under his contract of employment with the society or company;
  - (b) the payment of remuneration or expenses to an officer of the society or company who does not have a contract of employment with the society or company;
  - (c) any such payment as may be made in accordance with paragraph 1(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 an officer or employee, the grant to that tenant of a new tenancy whether of the same or another house;
  - (f) payments made or benefits granted in accordance with any determination made by the Corporation.
- (3) A determination for the purposes of sub-paragraph (2)(f) may specify the class or classes of case in which a payment may be made or benefit granted and specify the maximum amount.
- (4) Where a society or company pays a sum or grants a benefit in contravention of this paragraph, the society or company may recover the sum or value of the benefit; and proceedings for its recovery shall be taken if the Corporation so directs.

**Commencement Information**

- II** Sch. 1 para. 2 wholly in force at 1.10.1996; Sch. 1 para. 2 not in force at Royal Assent; Sch. 1 para. 2(2)(f) in force for certain purposes at 1.8.1996 by S.I. 1996/2048, art. 3; Sch. 1 para. 2 in force at 1.10.1996 to the extent that it is not already in force by S.I. 1996/2404, art. 3 (subject to the transitional provisions and savings in the Sch. of that S.I.)

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*Maximum amounts payable by way of fees, expenses, &c.*

- 3 (1) The Corporation may from time to time specify the maximum amounts which may be paid by a registered social landlord which is an industrial and provident society or a company registered under the <sup>M2</sup>Companies Act 1985—
- (a) by way of fees or other remuneration, or by way of expenses, to a member of the society or company who is not an officer or employee of the society or company, or
  - (b) by way of remuneration or expenses to an officer of the society or company who does not have a contract of employment with the society or company.
- (2) Different amounts may be so specified for different purposes.
- (3) Where a society or company makes a payment in excess of the maximum permitted under this paragraph, the society or company may recover the excess, and proceedings for its recovery shall be taken if the Corporation so directs.

**Commencement Information**

**I2** Sch. 1 para. 3 wholly in force 1.10.1996; Sch. 1 para. 3 not in force at Royal Assent see s. 232(3); Sch. 1 para. 3(1)(2) in force at 1.8.1996 by 1996/2048, art. 2(1); Sch. 1 para. 3 in force at 1.10.1996 to the extent it is not already in force, by S.I. 1996/2402, art. 3 (subject to the transitional provisions in the Sch. to that S.I.)

**Marginal Citations**

**M2** 1985 c. 6.

VALID FROM 01/10/1996

**PART II**

CONSTITUTION, CHANGE OF RULES, AMALGAMATION AND DISSOLUTION

*General power to remove director, trustee, &c.*

- 4 (1) The Corporation may, in accordance with the following provisions, by order remove—
- (a) a director or trustee of a registered social landlord which is a registered charity,
  - (b) a committee member of a registered social landlord which is an industrial and provident society, or
  - (c) a director of a registered social landlord which is a company registered under the Companies Act 1985.
- (2) The Corporation may make an order removing any such person if—
- (a) he has been adjudged bankrupt or has made an arrangement with his creditors;

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- (b) he is subject to a disqualification order under the <sup>M3</sup>Company Directors Disqualification Act 1986;
  - (c) he is subject to an order under section 429(2) of the <sup>M4</sup>Insolvency Act 1986 (failure to pay under county court administration order);
  - (d) he is disqualified under section 72 of the <sup>M5</sup>Charities Act 1993 from being a charity trustee;
  - (e) he is incapable of acting by reason of mental disorder;
  - (f) he has not acted; or
  - (g) he cannot be found or does not act and his absence or failure to act is impeding the proper management of the registered social landlord's affairs.
- (3) 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 registered social landlord.
- (4) That notice 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.
- (5) A person who is ordered to be removed under this paragraph may appeal against the order to the High Court.

#### Marginal Citations

- M3** 1986 c. 46.  
**M4** 1986 c. 45.  
**M5** 1993 c. 10.

#### *Restriction on power of removal in case of registered charity*

- 5 (1) The Corporation may make an order under paragraph 4 removing a director or trustee of a registered charity only if the charity has, at any time before the power is exercised—
- (a) received financial assistance under section 24 of the <sup>M6</sup>Local Government Act 1988 (assistance for privately let housing accommodation),
  - (b) had property transferred to it on a qualifying disposal under section 135 of the <sup>M7</sup>Leasehold Reform, Housing and Urban Development Act 1993, or
  - (c) received a grant or loan under any of the following provisions.
- (2) The provisions are—
- section 18 of this Act (social housing grants),
  - section 22 of this Act or section 58 of the <sup>M8</sup>Housing Associations Act 1985 (grants or loans by local authorities),
  - section 50 of the <sup>M9</sup>Housing Act 1988, section 41 of the Housing Associations Act 1985 or any enactment replaced by that section (housing association grant),
  - section 51 of the Housing Act 1988 or section 54 or 55 of the Housing Associations Act 1985 (revenue deficit grant or hostel deficit grant),

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section 79 of the Housing Associations Act 1985 (loans by Housing Corporation),  
section 31 of the <sup>M10</sup>Housing Act 1974 (management grants), or  
any enactment mentioned in paragraph 2 or 3 of Schedule 1 to the Housing Associations Act 1985 (pre-1974 grants and certain loans).

#### Marginal Citations

- M6** 1988 c. 9.  
**M7** 1993 c. 28.  
**M8** 1985 c. 69.  
**M9** 1988 c. 50.  
**M10** 1974 c. 44.

#### *Registered charity: power to appoint new director or trustee*

- 6 (1) The Corporation may by order appoint a person to be a director or trustee of a registered social landlord which is a registered charity—
- (a) in place of a person removed by the Corporation,
  - (b) where there are no directors or no trustees, or
  - (c) where the Corporation is of the opinion that it is necessary for the proper management of the charity's affairs to have an additional director or trustee.

The power conferred by paragraph (c) may be exercised notwithstanding that it will cause the maximum number of directors or trustees permissible under the charity's constitution to be exceeded.

- (2) The Corporation shall only exercise its power under sub-paragraph (1) if—
- (a) the charity has, at any time before the power is exercised, received financial assistance, had property transferred to it, or received a grant or loan as mentioned in paragraph 5, and
  - (b) the Corporation has consulted the Charity Commissioners.

- (3) A person may be so appointed notwithstanding any restrictions on appointment in the charity's constitution or rules.

- (4) A person appointed under this paragraph 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.

This does not prevent a person appointed under this paragraph from retiring in accordance with the charity's constitution or rules.

- (5) A person appointed under this paragraph as director or trustee of a registered charity is entitled—
- (a) to attend, speak and vote at any general meeting of the charity and to receive all notices of and other communications relating to any such meeting which a member is entitled to receive,
  - (b) to move a resolution at any general meeting of the charity, and

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- (c) to require a general meeting of the charity to be convened within 21 days of a request to that effect made in writing to the directors or trustees.

*Company: power to appoint new director*

- 7 (1) The Corporation may by order appoint a person to be a director of a registered social landlord which is a company registered under the <sup>M11</sup>Companies Act 1985—
- (a) in place of a director removed by the Corporation,
  - (b) where there are no directors, or
  - (c) where the Corporation is of the opinion that it is necessary for the proper management of the company's affairs to have an additional director.
- (2) A person may be so appointed whether or not he is a member of the company and notwithstanding anything in the company's articles of association.
- (3) Where a person is appointed under this paragraph—
- (a) he shall hold office for such period and on such terms as the Corporation may specify, and
  - (b) on the expiry of the appointment the Corporation may renew the appointment for such period as it may specify.
- This does not prevent a person from retiring in accordance with the company's articles of association.
- (4) A person appointed under this paragraph is entitled—
- (a) to attend, speak and vote at any general meeting of the company and to receive all notices of and other communications relating to any general meeting which a member of the company is entitled to receive,
  - (b) to move a resolution at any general meeting of the company, and
  - (c) to require an extraordinary general meeting of the company to be convened within 21 days of a request to that effect made in writing to the directors of the company.

**Marginal Citations**

**M11** 1985 c. 6.

*Industrial and provident society: power to appoint new committee member*

- 8 (1) The Corporation may by order appoint a person to be a committee member of a registered social landlord which is an industrial and provident society—
- (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 the opinion that it is necessary for the proper management of the society's affairs to have an additional committee member.

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The power conferred by paragraph (c) may be exercised notwithstanding that it will cause the maximum number of committee members permissible under the society's constitution to be exceeded.

- (2) A person may be so appointed whether or not he is a member of the society and, if he is not, notwithstanding that the rules of the society restrict appointment to members.
- (3) A person appointed under this paragraph 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.

This does not prevent a person appointed under this paragraph from retiring in accordance with the rules of the society.

- (4) A person appointed under this paragraph is entitled—
  - (a) to attend, speak and vote at any general meeting of the society and to receive all notices of and other communications relating to any general meeting which a member of the society is entitled to receive,
  - (b) to move a resolution at any general meeting of the society, and
  - (c) to require a general meeting of the society to be convened within 21 days of a request to that effect made in writing to the committee of the society.

*Change of rules, &c. by industrial and provident society*

- 9 (1) This paragraph applies to an industrial and provident society whose registration as a social landlord has been recorded by the appropriate registrar.
- (2) Notice shall be sent to the Corporation of any change of the society's name or of the situation of its registered office.
- (3) Any other amendment of the society's rules is not valid without the Corporation's consent given by order under the seal of the Corporation.
- (4) A copy of that consent shall be sent with the copies of the amendment required by section 10(1) of the <sup>M12</sup>Industrial and Provident Societies Act 1965 to be sent to the appropriate registrar.
- (5) The Industrial and Provident Societies Act 1965 applies in relation to the provisions of this paragraph as if they were contained in section 10 of that Act (amendment of registered rules).

**Marginal Citations**

M12 1965 c. 12.

*Change of objects by certain charities*

- 10 (1) This paragraph applies to a registered social landlord—
  - (a) which is a registered charity and is not a company incorporated under the <sup>M13</sup>Companies Act 1985, and



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(b) whose registration under this Part of this Act has been recorded by the Charity Commissioners in accordance with section 3(3).

(2) No power contained in the provisions establishing the registered social landlord as a charity, or regulating its purposes or administration, to vary or add to its objects may be exercised without the consent of the Charity Commissioners.

Before giving their consent the Charity Commissioners shall consult the Corporation.

**Marginal Citations**

**M13** 1985 c. 6.

*Change of memorandum or articles of association of company*

- 11 (1) This paragraph applies to a company registered under the Companies Act 1985 (including such a company which is also a registered charity) whose registration as a social landlord has been recorded by the registrar of companies.
- (2) Notice shall be sent to the Corporation of any change of the company's name or of the address of its registered office.
- (3) Any other alteration of the company's memorandum or articles of which notice is required to be given to the registrar of companies is not valid without the Corporation's consent given by order under the seal of the Corporation.
- (4) A copy of that consent shall be sent with any copy of the alterations required to be sent to the registrar of companies under the Companies Act 1985.

*Amalgamation and dissolution &c. of industrial and provident society*

- 12 (1) This paragraph applies to an industrial and provident society whose registration as a social landlord has been recorded by the appropriate registrar.
- (2) The registrar shall not register a special resolution which is passed for the purposes of—
- (a) section 50 of the <sup>M14</sup>Industrial and Provident Societies Act 1965 (amalgamation of societies),
  - (b) section 51 of that Act (transfer of engagements between societies), or
  - (c) section 52 of that Act (power of a society to convert itself into, amalgamate with or transfer its engagements to a company registered under the Companies Act 1985),
- unless, together with the copy of the resolution, there is sent to him a copy of the Corporation's consent to the amalgamation, transfer or conversion.
- (3) Any new body created by the amalgamation or conversion or, in the case of a transfer of engagements, the transferee, shall be deemed to be registered as a social landlord forthwith upon the amalgamation, conversion or transfer taking effect.



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- (4) If the society resolves by special resolution that it be wound up voluntarily under the <sup>M15</sup>Insolvency Act 1986, the resolution has no effect unless—
- before the resolution was passed the Corporation gave its consent to its passing, and
  - a copy of the consent is forwarded to the appropriate registrar together with a copy of the resolution required to be so forwarded in accordance with the Companies Act 1985.
- (5) If the society is to be dissolved by instrument of dissolution, the appropriate registrar shall not—
- register the instrument in accordance with section 58(5) of the <sup>M16</sup>Industrial and Provident Societies Act 1965, or
  - 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 paragraph to the Corporation's consent are to consent given by order under the seal of the Corporation.

#### Marginal Citations

**M14** 1965 c. 12.

**M15** 1986 c. 45.

**M16** 1965 c. 12.

#### *Arrangement, reconstruction, &c. of company*

- 13 (1) This paragraph applies to a company registered under the <sup>M17</sup>Companies Act 1985 whose registration as a social landlord has been recorded by the registrar of companies.
- (2) An order of the court given for the purposes of section 425 of the Companies Act 1985 (compromise or arrangement with creditors or members) is not effective unless the Corporation has given its consent.
- A copy of the consent shall be sent to the registrar of companies along with the office copy of the order delivered to him under that section.
- (3) An order of the court given for the purposes of section 427 of the Companies Act 1985 (transfer of undertaking or property for purposes of reconstruction or amalgamation) is not effective unless the Corporation has given its consent.
- A copy of the consent shall be sent to the registrar of companies along with the office copy of the order delivered to him under that section.
- (4) The registrar of companies shall not register any resolution under section 53 of the Industrial and Provident Societies Act 1965 (conversion of company into industrial and provident society), unless, together with the copy of the resolution, there is sent to him a copy of the Corporation's consent to the conversion.

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- (5) Where a director, administrator or liquidator of the company proposes to make a voluntary arrangement with the company's creditors under section 1 of the <sup>M18</sup>Insolvency Act 1986, the arrangement shall not take effect under section 5 (effect of approval by members and creditors) of that Act unless the Corporation has given its consent to the voluntary arrangement.
- (6) If the company resolves by special resolution that it be wound up voluntarily under the Insolvency Act 1986, the resolution has no effect unless—
  - (a) before the resolution was passed the Corporation gave its consent to its passing, and
  - (b) a copy of the consent is forwarded to the registrar of companies together with a copy of the resolution required to be so forwarded in accordance with section 380 of the Companies Act 1985.
- (7) The references in this paragraph to the Corporation's consent are to consent given by order under the seal of the Corporation.
- (8) Where sub-paragraph (3) or (4) applies, the transferee or, as the case may be, any new body created by the conversion shall be deemed to be registered as a social landlord forthwith upon the transfer or conversion taking effect.

#### Marginal Citations

**M17** 1985 c. 6.

**M18** 1986 c. 45.

VALID FROM 01/11/1998

*[<sup>F1</sup>Relevant Authority's] power to petition for winding up*

#### Textual Amendments

**F1** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

- 14 (1) The [<sup>F2</sup>Relevant Authority] may present a petition for the winding up under the Insolvency Act 1986 of a registered social landlord which is—
- (a) a company incorporated under the Companies Act 1985 (including such a company which is also a registered charity), or
  - (b) an industrial and provident society (to which the winding up provisions of the <sup>M19</sup>Insolvency Act 1986 apply in accordance with section 55(a) of the <sup>M20</sup>Industrial and Provident Societies Act 1965),
- on either of the following grounds.
- (2) The grounds are—
- (a) that the landlord is failing properly to carry out its purposes or objects, or
  - (b) that the landlord is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986.

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### *Transfer of net assets on dissolution or winding up*

- 15 (1) This paragraph applies—
- (a) where a registered social landlord which is an industrial and provident society is dissolved as mentioned in section 55(a) or (b) of the Industrial and Provident Societies Act 1965 (winding-up under the Insolvency Act 1986 or by instrument of dissolution), and
  - (b) where a registered social landlord which is a company registered under the <sup>M21</sup>Companies Act 1985 is wound up under the Insolvency Act 1986.
- (2) On such a dissolution or winding-up, so much of the property of the society or company as remains after meeting the claims of its creditors and any other liabilities arising on or before the dissolution or winding-up shall be transferred to the Corporation or, if the Corporation so directs, to a specified registered social landlord.
- The above provision has effect notwithstanding anything in the Industrial and Provident Societies Act 1965, the Companies Act 1985 or the Insolvency Act 1986, or in the rules of the society or, as the case may be, in the memorandum or articles of association of the company.
- (3) In order to avoid the necessity for the sale of land belonging to the registered social landlord and thereby secure the transfer of the land under this paragraph, 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 sub-paragraph (2).
- (4) Where the registered social landlord which is dissolved or wound up is a charity, the Corporation may dispose of property transferred to it by virtue of this paragraph only to another registered social landlord—
- (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 body which is dissolved or wound up.
- (5) In any other case the Corporation may dispose of property transferred to it by virtue of this paragraph to a registered social landlord or to a subsidiary of the Corporation.
- (6) Where property transferred to the Corporation by virtue of this paragraph 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 of the <sup>M22</sup>Housing Associations Act 1985, 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.

#### **Marginal Citations**

**M21** 1985 c. 6.

**M22** 1985 c. 69.

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### PART III

#### ACCOUNTS AND AUDIT

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

- 16 (1) The Corporation may from time to time determine accounting requirements for registered social landlords with a view to ensuring that the accounts of every registered social landlord—
- (a) are prepared in a proper form, and
  - (b) give a true and fair view of—
    - (i) the state of affairs of the landlord, so far as its housing activities are concerned, and
    - (ii) the disposition of funds and assets which are, or at any time have been, in its hands in connection with those activities.
- (2) The Corporation by a determination under sub-paragraph (1) may lay down a method by which a registered charity is to distinguish in its accounts between its housing activities and other activities.
- (3) The accounts of every registered social landlord shall comply with the requirements laid down under this paragraph.
- (4) 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.
- (5) Every registered social landlord shall furnish to the Corporation a copy of its accounts and auditor's report within six months of the end of the period to which they relate.

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

**C1** Sch. 1 para. 16(3)-(5) extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch. para. 5

#### **Commencement Information**

**I3** Sch. 1 para. 16 wholly in force 1.10.1996; Sch. 1 para. 16 not in force at Royal Assent see s. 232(3); Sch. 1 para. 16(1)(2) in force at 1.8.1996 by 1996/2048, art. 2(1); Sch. 1 para. 16 in force at 1.10.1996 to the extent not already in force, by S.I. 1996/2402, art. 3 (subject to the transitional savings in the Sch. to that S.I.)

VALID FROM 01/10/1996

##### *Appointment of auditors by industrial and provident societies*

- 17 Section 4 of the <sup>M23</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 industrial and provident society which is a registered social landlord, without regard to the volume of its receipts and payments, the number of its members or the value of its assets.

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### Marginal Citations

M23 1968 c. 55.

VALID FROM 01/10/1996

### *Accounting and audit requirements for charities*

- 18 (1) A registered social landlord which is a registered charity shall, in respect of its housing activities (and separately from its other activities, if any), be subject to the following provisions (which impose accounting and audit requirements corresponding to those imposed by the Friendly and Industrial and Provident Societies Act 1968).

This does not affect any obligation of the charity under sections 41 to 45 of the <sup>M24</sup>Charities Act 1993 (charity accounts).

- (2) The charity shall in respect of its housing activities—
- cause to be kept properly books of account showing its transactions and its assets and liabilities, and
  - establish and maintain a satisfactory system of control of its books of accounts, its cash holdings and all its receipts and remittances.

The books of account must be such as to enable a true and fair view to be given of the state of affairs of the charity in respect of its housing activities, and to explain its transactions in the course of those activities.

- (3) The charity shall for each period of account prepare—
- a revenue account giving a true and fair view of the charity's income and expenditure in the period, so far as arising in connection with its housing activities, and
  - a balance sheet giving a true and fair view as at the end of the period of the state of the charity's affairs.

The revenue account and balance sheet must be signed by at least two directors or trustees of the charity.

- (4) The charity shall in each period of account appoint a qualified auditor to audit the accounts prepared in accordance with sub-paragraph (3).

A qualified auditor means a person who is eligible for appointment as auditor of the charity under Part II of the <sup>M25</sup>Companies Act 1989 or who would be so eligible if the charity were a company registered under the <sup>M26</sup>Companies Act 1985.

- (5) The auditor shall make a report to the charity on the accounts audited by him, stating whether in his opinion—
- the revenue account gives a true and fair view of the state of income and expenditure of the charity in respect of its housing activities and of any other matters to which it relates, and

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- (b) the balance sheet gives a true and fair view of the state of affairs of the charity as at the end of the period of account.
- (6) The auditor in preparing his report shall carry out such investigations as will enable him to form an opinion as to the following matters—
- (a) whether the association has kept, in respect of its housing activities, proper books of account in accordance with the requirements of this paragraph,
  - (b) whether the charity has maintained a satisfactory system of control over its transactions in accordance with those requirements, and
  - (c) whether the accounts are in agreement with the charity's books;
- and if he is of opinion that the charity has failed in any respect to comply with this paragraph, or if the accounts are not in agreement with the books, he shall state that fact in his report.
- (7) The auditor—
- (a) has a right of access at all times to the books, deeds and accounts of the charity, so far as relating to its housing activities, and to all other documents relating to those activities, and
  - (b) is entitled to require from officers of the charity such information and explanations as he thinks necessary for the performance of his duties;
- and if he fails to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of his audit, he shall state that fact in his report.
- (8) A period of account for the purposes of this paragraph is twelve months or such other period not less than six months or more than 18 months as the charity may, with the consent of the Corporation, determine.

**Marginal Citations**

**M24** 1993 c. 10.

**M25** 1989 c. 40.

**M26** 1985 c. 6.

VALID FROM 01/10/1996

*Responsibility for securing compliance with accounting requirements*

- 19 (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 social landlord, and
  - (b) is in that capacity responsible for the preparation and audit of accounts,
- shall ensure that paragraph 16 (general requirements as to accounts and audit) and, where applicable, paragraph 18 (accounting and audit requirements for charities) are complied with by the registered social landlord.
- (2) If—

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- (a) paragraph 16(5) (furnishing of accounts and auditor’s report) is not complied with,
- (b) the accounts furnished to the Corporation under that provision do not comply with the accounting requirements laid down under paragraph 16(1),
- (c) paragraph 18 (accounting and audit requirements for charities), where applicable, is not complied with,
- (d) section 55(9) of the <sup>M27</sup>Housing Act 1988 (surplus rental income: power to require information) is not complied with, or
- (e) any notice under section 26 (information relating to disposal proceeds fund) is not complied with,

every responsible person, and the registered social landlord itself, commits a summary offence and is liable on conviction to a fine not exceeding level 3 on the standard scale.

- (3) In proceedings for an offence under this paragraph 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 relevant duty;
  - (b) for a registered social landlord to prove that every responsible person did everything that could reasonably have been expected of him by way of discharging the relevant duty in relation to the registered social landlord.
- (4) Proceedings for an offence under this paragraph may be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.

#### Marginal Citations

M27 1988 c. 50.

## PART IV

### INQUIRY INTO AFFAIRS OF REGISTERED SOCIAL LANDLORDS

VALID FROM 01/10/1996

#### *Inquiry*

- 20 (1) The Corporation may direct an inquiry into the affairs of a registered social landlord if it appears to the Corporation that there may have been misconduct or mismanagement.

For this purpose “misconduct” includes any failure to comply with the requirements of this Part of this Act.

- (2) Any such inquiry shall be conducted by one or more persons appointed by the Corporation.



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- (3) If one person is appointed he must be a person who is not a member or an employee of the Corporation and has not been such a member or employee within the previous five years; and if more than one person is appointed at least one of them must be such a person.
- (4) If the Corporation so directs, or if during the course of the inquiry the person or persons conducting the inquiry consider it necessary, the inquiry shall extend to the affairs of any other body which at any material time is or was a subsidiary or associate of the registered social landlord.
- (5) The person or persons conducting the inquiry may, if they think fit during the course of the inquiry, make one or more interim reports on such matters as appear to them to be appropriate.
- (6) On completion of the inquiry the person or persons conducting the inquiry shall make a final report on such matters as the Corporation may specify.
- (7) An interim or final report shall be in such form as the Corporation may specify.

VALID FROM 01/10/1996

*Power of appointed person to obtain information*

- 21
- (1) A person appointed by the Corporation under paragraph 20 to conduct an inquiry (or, if more than one person is so appointed, each of those persons) has, for the purposes of the inquiry, the same powers as are conferred on the Corporation by section 30 (general power to obtain information).
  - (2) Where by virtue of a notice under that section given by an appointed person any documents are produced to any person, the person to whom they are produced may take copies of or make extracts from them.
  - (3) Section 31 (enforcement of notice to provide information, &c.) applies in relation to a notice given under this paragraph by an appointed person as it applies in relation to a notice given under section 30 by the Corporation.

VALID FROM 01/10/1996

*Extraordinary audit for purposes of inquiry*

- 22
- (1) For the purposes of an inquiry under paragraph 20 the Corporation may require the accounts and balance sheet of the registered social landlord 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 would be eligible for appointment as auditor of the ordinary accounts of the registered social landlord.

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- (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 paragraph is additional to, and does not affect, any audit made or to be made under any other enactment.

VALID FROM 01/10/1996

*Powers exercisable on interim basis*

- 23
- (1) The Corporation may make an order under this paragraph—
    - (a) where an inquiry has been directed under paragraph 20 and the Corporation has reasonable grounds to believe—
      - (i) that there has been misconduct or mismanagement in the affairs of the registered social landlord, and
      - (ii) that immediate action is needed to protect the interests of the tenants of the registered social landlord or to protect the assets of the landlord; or
    - (b) where an interim report has been made under paragraph 20(5) as a result of which the Corporation is satisfied that there has been misconduct or mismanagement in the affairs of a registered social landlord.
  - (2) The orders that may be made under this paragraph are—
    - (a) an order suspending any officer, employee or agent of the registered social landlord who appears to the Corporation to have been responsible for or privy to the misconduct or mismanagement or by his conduct to have contributed to or facilitated it;
    - (b) an order directing any bank or other person who holds money or securities on behalf of the registered social landlord not to part with the money or securities without the approval of the Corporation;
    - (c) an order restricting the transactions which may be entered into, or the nature or amount of the payments which may be made, by the registered social landlord without the approval of the Corporation.
  - (3) An order under this paragraph, if not previously revoked by the Corporation, shall cease to have effect six months after the making of the final report under paragraph 20(6) unless the Corporation renews it, which it may do for a further period of up to six months.
  - (4) A person suspended by an order under sub-paragraph (2)(a) may appeal against the order to the High Court.
  - (5) Where a person is suspended by such an order, the Corporation may give directions with respect to the performance of his functions and otherwise as to matters arising from his suspension.

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The Corporation may, in particular, appoint a named person to perform his functions.

- (6) A person who contravenes an order under sub-paragraph (2)(b) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months, or both.

Proceedings for such an offence may be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.

VALID FROM 01/10/1996

*Powers exercisable as a result of final report or audit*

- 24 (1) Where the Corporation is satisfied, as the result of an inquiry under paragraph 20 or an audit under paragraph 22, that there has been misconduct or mismanagement in the affairs of a registered social landlord, it may make an order under this paragraph.

- (2) The orders that may be made under this paragraph are—

- (a) an order removing any officer, employee or agent of the registered social landlord who appears to the Corporation to have been responsible for or privy to the misconduct or mismanagement or by his conduct to have contributed to or facilitated it;
- (b) an order suspending any such person for up to six months, pending determination whether he should be removed;
- (c) an order directing any bank or other person who holds money or securities on behalf of the registered social landlord not to part with the money or securities without the approval of the Corporation;
- (d) an order restricting the transactions which may be entered into, or the nature or amount of the payments which may be made, by the registered social landlord without the approval of the Corporation.

- (3) Before making an order under sub-paragraph (2)(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 registered social landlord concerned.

Notice under this sub-paragraph 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 sub-paragraph (2)(a) or suspended under sub-paragraph (2)(b) may appeal against the order to the High Court.

- (5) Where a person is suspended under sub-paragraph (2)(b), the Corporation may give directions with respect to the performance of his functions and otherwise as to matters arising from the suspension.

The Corporation may, in particular, appoint a named person to perform his functions.

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- (6) A person who contravenes an order under sub-paragraph (2)(c) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months, or both.

Proceedings for such an offence may be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.

VALID FROM 01/10/1996

*Disqualification as officer of registered social landlord.*

- 25 (1) A person is disqualified from being an officer of a registered social landlord if the Corporation has made an order against him under—
- (a) paragraph 24(2)(a) (removal for misconduct or mismanagement), or
  - (b) section 30(1)(a) of the <sup>M28</sup>Housing Associations Act 1985 or section 20(1)(a) of the <sup>M29</sup>Housing Act 1974 (corresponding earlier provisions).
- (2) The Corporation may, on the application of any such person, waive his disqualification either generally or in relation to a particular registered social landlord or particular class of registered social landlord.
- (3) Any waiver shall be notified in writing to the person concerned.
- (4) For the purposes of this paragraph the Corporation shall keep, in such manner as it thinks fit, a register of all persons who have been removed from office by the Corporation under the provisions mentioned in sub-paragraph (1).
- (5) The register shall be available for public inspection at all reasonable times.

**Marginal Citations**

**M28** 1985 c. 69.

**M29** 1974 c. 44.

VALID FROM 01/10/1996

*Persons acting as officer while disqualified.*

- 26 (1) A person who acts as an officer of a registered social landlord while he is disqualified under paragraph 25(1) commits an offence.
- A person guilty of such an offence is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.

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- (2) Proceedings for an offence under sub-paragraph (1) may be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.
- (3) Acts done as an officer of a registered social landlord by a person who is disqualified under paragraph 25(1) are not invalid by reason only of that disqualification.
- (4) Where the Corporation is satisfied—
- (a) that a person has acted as an officer of a registered social landlord while disqualified under paragraph 25(1), and
  - (b) that while so acting he has received from the registered social landlord any payments or benefits in connection with his so acting,
- it may by order direct him to repay to the registered social landlord the whole or part of any such sums or, as the case may be, to pay to it the whole or part of the monetary value (as determined by it) of any such benefit.

#### *Power to direct transfer of land*

- 27 (1) Where as a result of an inquiry under paragraph 20 or an audit under paragraph 22 the Corporation is satisfied as regards a registered social landlord—
- (a) that there has been misconduct or mismanagement in its administration, or
  - (b) that the management of its land would be improved if its land were transferred in accordance with the provisions of this paragraph,
- the Corporation may, with the consent of the Secretary of State, direct the registered social landlord to make such a transfer.
- (2) Where the registered social landlord concerned is a charity, the Corporation may only direct a transfer to be made to another registered social landlord—
- (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 registered social landlord concerned.
- (3) In any other case the Corporation may direct a transfer to be made to the Corporation or to another registered social landlord.
- (4) The transfer shall be on such terms as the Corporation may direct on the basis of principles determined by it.
- The consent of the Secretary of State is required both for the terms of the transfer and for the determination of the principles on which it is based.
- (5) The price shall not be less than the amount certified by the district valuer to be the amount the property would command if sold by a willing seller to another registered social landlord.
- (6) The terms shall include provision as to the payment of debts and liabilities (including debts and liabilities secured on the land).

#### **Commencement Information**

- I4** [Sch. 1 para. 27](#) wholly in force at 1.10.1996; [Sch. 1 para. 27](#) not in force at Royal Assent see [s. 232\(3\)](#); [Sch. 1 para. 27\(4\)](#) in force for certain purposes at 1.8.1996 by [S.I. 1996/2048](#), [art. 3](#); [Sch. 1 para. 27](#) in

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force at 1.10.1996 to the extent that it is not already in force, by S.I. 1996/2402, art. 3 (subject to the transitional provisions and savings in the Sch. of that S.I.)

VALID FROM 01/10/1996

*Availability of powers in relation to registered charities.*

- 28 (1) The Corporation may exercise its powers under paragraphs 20 to 26 in relation to a registered charity only if the charity has, at any time before the powers are exercised—
- (a) received financial assistance under section 24 of the <sup>M30</sup>Local Government Act 1988 (assistance for privately let housing accommodation),
  - (b) had property transferred to it on a qualifying disposal under section 135 of the <sup>M31</sup>Leasehold Reform, Housing and Urban Development Act 1993, or
  - (c) received a grant or loan under any of the following provisions.
- (2) The provisions are—
- section 18 of this Act (social housing grant),
  - section 22 of this Act or section 58 of the <sup>M32</sup>Housing Associations Act 1985 (grants or loans by local authorities),
  - section 50 of the <sup>M33</sup>Housing Act 1988, section 41 of the Housing Associations Act 1985 or any enactment replaced by that section (housing association grant),
  - section 51 of the Housing Act 1988 or section 54 or 55 of the Housing Associations Act 1985 (revenue deficit grant or hostel deficit grant),
  - section 79 of the Housing Associations Act 1985 (loans by Housing Corporation),
  - section 31 of the <sup>M34</sup>Housing Act 1974 (management grants), or
  - any enactment mentioned in paragraph 2 or 3 of Schedule 1 to the Housing Associations Act 1985 (pre-1974 grants and certain loans).
- (3) In relation to a registered charity paragraphs 20 to 26 have effect with the following adaptations—
- (a) references to its affairs are confined to its housing activities and such other activities (if any) as are incidental to or connected with its housing activities;
  - (b) references to its 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 balance sheet;
  - (c) a person is a qualified auditor for the purpose of paragraph 22 (extraordinary audit) only if he is an auditor qualified for the purposes of paragraph 18 (accounting and audit requirements for charities).
- (4) The Corporation shall notify the Charity Commissioners upon the exercise in relation to a registered charity of its powers under—
- (a) paragraph 20(1) (inquiry into affairs of registered social landlord),

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- (b) paragraph 23(2)(a) (interim suspension of person in connection with misconduct or mismanagement), or
- (c) paragraph 24(2)(a) or (b) (removal of person in connection with misconduct or mismanagement or suspension with a view to removal).

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**Marginal Citations**

**M30** 1988 c. 9.

**M31** 1993 c. 28.

**M32** 1985 c. 69.

**M33** 1988 c. 50.

**M34** 1974 c. 44.

The Corporation may not exercise its powers under paragraph 27 in relation to a registered charity.



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