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## SCHEDULES

### SCHEDULE 1

#### REGISTERED SOCIAL LANDLORDS: REGULATION

#### PART III

#### ACCOUNTS AND AUDIT

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

- 16 (1) The [<sup>F1</sup>Relevant Authority] 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 [<sup>F1</sup>Relevant Authority] 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.
- <sup>F2</sup>(4) .....
- [<sup>F3</sup>(5) Every registered social landlord shall furnish to the Relevant Authority—
- (a) a copy of its accounts, and
  - (b) (subject to sub-paragraph (7)) a copy of the auditor’s report in respect of them,
- within six months of the end of the period to which they relate.
- (6) 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 comply with the requirements laid down under this paragraph.
- (7) The provisions of sub-paragraphs (5)(b) and (6) do not apply where, by virtue of any enactment—
- (a) any accounts of a registered social landlord are not required to be audited, and
  - (b) instead a report is required to be prepared in respect of them by a person appointed for the purpose (“the reporting accountant”),

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and sub-paragraph (8) shall apply in place of those provisions.

(8) In such a case—

- (a) the registered social landlord shall furnish to the Relevant Authority a copy of the reporting accountant's report in respect of the accounts within six months of the end of the period to which they relate; and
- (b) that report shall state, in addition to any other matters which it is required to state, whether in the reporting accountant's opinion the accounts comply with the requirements laid down under this paragraph.]

#### 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**.
- F2** Sch. 1 para. 16(4) repealed (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), Sch. 11 para. 17(2), **Sch. 16**
- F3** Sch. 1 para. 16(5)-(8) substituted for Sch. 1 para. 16(5) (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), **Sch. 11 para. 17(3)**

#### 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

- II** 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.)

*[<sup>F4</sup>Companies exempt from audit requirements: accountant's report*

#### Textual Amendments

- F4** Sch. 1 para. 16A and cross-heading inserted (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), **Sch. 11 para. 18**

[<sup>F5</sup>16A(1) This paragraph applies to a registered social landlord that—

- (a) is a company,
  - (b) is exempt from the audit requirements of the Companies Act 2006 by virtue of section 477 of that Act (small companies' exemption), and
  - (c) is not a charity.
- (2) The directors of the company must cause a report to be prepared in accordance with paragraph 16B and made to the company's members in respect of the company's individual accounts for any year in which the company takes advantage of its exemption from audit.
- (3) The Relevant Authority may, in respect of any such financial year, give a direction to the company requiring it—
- (a) to appoint a qualified auditor to audit its accounts and balance sheet for that year, and

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- (b) to furnish to the Relevant Authority a copy of the auditor's report by such date as is specified in the direction.
- (4) A direction under sub-paragraph (3) may not be given until after the end of the financial year to which it relates.

#### Textual Amendments

**F5** Sch. 1 paras. 16A-16E substituted for Sch. 1 para. 16A (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12)

- 16B. (1) The report required for the purposes of paragraph 16A(2) must be prepared by a person (“the reporting accountant”) who is eligible under paragraph 16C.
- (2) The report must state whether in the opinion of the reporting accountant making it—
    - (a) the accounts of the company for the financial year in question are in agreement with the accounting records kept by the company under section 386 of the Companies Act 2006, and
    - (b) having regard only to, and on the basis of, the information contained in those accounting records, those accounts have been drawn up in a manner consistent with the provisions of Part 15 of that Act, so far as applicable to the company.
  - (3) The report must also state that in the opinion of the reporting accountant, having regard only to, and on the basis of, the information contained in the accounting records kept by the company under section 386 of the Companies Act 2006, the company is entitled to exemption from audit under section 477 of that Act (small companies' exemption) for the financial year in question.
  - (4) The report must state the name of the reporting accountant and be signed and dated.
  - (5) The report must be signed—
    - (a) where the reporting accountant is an individual, by that individual;
    - (b) where the reporting accountant is a firm, for and on behalf of the firm by an individual authorised to do so.

#### Textual Amendments

**F5** Sch. 1 paras. 16A-16E substituted for Sch. 1 para. 16A (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12)

- 16C. (1) The reporting accountant must be either—
- (a) a member of a body listed in sub-paragraph (4) who, under the rules of the body—
    - (i) is entitled to engage in public practice, and
    - (ii) is not ineligible for appointment as a reporting accountant, or
  - (b) any person (whether or not a member of any such body) who—
    - (i) is subject to the rules of any such body in seeking appointment or acting as a statutory auditor under Part 42 of the Companies Act 2006, and

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- (ii) under those rules, is eligible for such appointment.
- (2) In sub-paragraph (1), references to the rules of a body listed in sub-paragraph (4) are to the rules (whether or not laid down by the body itself) which the body has power to enforce and which are relevant for the purposes of Part 42 of the Companies Act 2006 (statutory auditors) or this paragraph.
- This includes rules relating to the admission and expulsion of members of the body, so far as relevant for the purposes of that Part or this paragraph.
- (3) An individual or a firm may be appointed as a reporting accountant, and section 1216 of the Companies Act 2006 (effect of appointment of partnership) applies to the appointment as reporting accountant of a partnership constituted under the law of England and Wales or Northern Ireland, or under the law of any other country or territory in which a partnership is not a legal person.
- (4) The bodies referred to in sub-paragraphs (1) and (2) are—
- (a) the Institute of Chartered Accountants in England and Wales,
  - (b) the Institute of Chartered Accountants of Scotland,
  - (c) the Institute of Chartered Accountants in Ireland,
  - (d) the Association of Chartered Certified Accountants,
  - (e) the Association of Authorised Public Accountants,
  - (f) the Association of Accounting Technicians,
  - (g) the Association of International Accountants,
  - (h) the Chartered Institute of Management Accountants, and
  - (i) the Institute of Chartered Secretaries and Administrators.
- (5) The Secretary of State may by order amend sub-paragraph (4) by adding or removing a body to or from the list in that sub-paragraph or by varying any entry for the time being included in that list.
- (6) An order under sub-paragraph (5) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) A person may not be appointed by a company as reporting accountant if he would be prohibited from acting as auditor of that company by virtue of section 1214 of the Companies Act 2006 (independence requirement).

#### Textual Amendments

**F5** Sch. 1 paras. 16A-16E substituted for Sch. 1 para. 16A (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 202\(3\)](#) (with arts. 6, 11, 12)

- 16D. (1) The provisions of the Companies Act 2006 listed in sub-paragraph (2) apply to the reporting accountant and a reporting accountant's report as they apply to an auditor of the company and an auditor's report on the company's accounts, subject to any necessary modifications.
- (2) The provisions are—
- (a) sections 423 to 425 (duty to circulate copies of annual accounts);
  - (b) sections 431 and 432 (right of member or debenture holder to demand copies of accounts);

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- (c) sections 434 to 436 (requirements in connection with publication of accounts);
- (d) sections 437 and 438 (public companies: laying of accounts before general meeting);
- (e) sections 441 to 444 (duty to file accounts with registrar of companies);
- (f) section 454(4)(b) and regulations made under that provision (functions of auditor in relation to revised accounts);
- (g) sections 499 to 501 (auditor’s right to information);
- (h) sections 505 and 506 (name of auditor to be stated in published copies of report).

- (3) In sections 505 and 506 as they apply by virtue of this paragraph in a case where the reporting accountant is a firm, any reference to the senior statutory auditor shall be read as a reference to the person who signed the report on behalf of the firm.

#### Textual Amendments

- F5** Sch. 1 paras. 16A-16E substituted for Sch. 1 para. 16A (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12)

- 16E. In paragraphs 16A to 16D—
- “company” means a company registered under the Companies Act 1985;
  - “financial year” has the meaning given by section 390 of the Companies Act 2006;
  - “firm” has the meaning given by section 1173(1) of that Act;
  - “individual accounts” has the meaning given by section 394 of that Act;
  - “qualified auditor”, in relation to a company, means a person who—
- (a) is eligible for appointment as a statutory auditor of the company under Part 42 of that Act, and
  - (b) is not prohibited from acting as statutory auditor of the company by virtue of section 1214 of that Act (independence requirement).]

#### Textual Amendments

- F5** Sch. 1 paras. 16A-16E substituted for Sch. 1 para. 16A (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12)

*<sup>F6</sup>Industrial and provident societies exempt from audit requirements: accountant’s report*

#### Textual Amendments

- F6** Sch. 1 para. 17 and cross-heading substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), s. 270(3)(c), **Sch. 11 para. 19**

- 17 (1) This paragraph applies to registered social landlords which are industrial and provident societies.

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- (2) Section 9A of the Friendly and Industrial and Provident Societies Act 1968 (duty to obtain accountant’s reports where section 4 applied) shall have effect, in its application to such a landlord, with the omission of subsection (1)(b) (accountant’s report required only where turnover exceeds a specified sum).
- (3) The Relevant Authority may, in respect of any relevant year of account of such a landlord, give a direction to the landlord requiring it—
- (a) to appoint a qualified auditor to audit its accounts and balance sheet for that year, and
  - (b) to furnish to the Relevant Authority a copy of the auditor’s report by such date as is specified in the direction.
- (4) For the purposes of sub-paragraph (3), a year of account of a landlord is a “relevant year of account” if—
- (a) it precedes that in which the direction is given, and
  - (b) at the end of it there is in force in relation to it a disapplication under section 4A(1) of the Friendly and Industrial and Provident Societies Act 1968.
- (5) In this paragraph—
- “qualified auditor” means a person who is a qualified auditor for the purposes of the Friendly and Industrial and Provident Societies Act 1968;
- “year of account” has the meaning given by section 21(1) of that Act.]

*Accounting and audit <sup>F7</sup> or reporting ] requirements for charities*

**Textual Amendments**

**F7** Words in Sch. 1 para. 18 cross-heading inserted (18.1.2005) by [Housing Act 2004 \(c. 34\), s. 270\(3\)\(c\), Sch. 11 para. 20\(2\)](#)

- 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 <sup>F8</sup> ...

<sup>F8</sup> ...

- (2) The charity shall in respect of its housing activities—
- (a) cause to be kept properly books of account showing its transactions and its assets and liabilities, and
  - (b) 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) 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

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- (b) 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.

[<sup>F9</sup>]<sup>F9</sup>(4) The charity must appoint a qualified auditor (“the auditor”) to audit the accounts prepared in accordance with sub-paragraph (3) in respect of each period of account in which—

- (a) [<sup>F10</sup>the charity's gross income arising in connection with its housing activities exceeds the sum for the time being specified in section 43(1)(a) of the Charities Act 1993, or
- (b) the charity's gross income arising in that connection exceeds the accounts threshold and at the end of that period the aggregate value of its assets (before deduction of liabilities) in respect of its housing activities exceeds the sum for the time being specified in section 43(1)(b) of that Act;

and in this sub-paragraph “gross income” and “accounts threshold” have the same meanings as in section 43 of the Charities Act 1993.]

(4A) Where sub-paragraph (4) does not apply in respect of a period of account, the charity must appoint a qualified auditor (“the reporting accountant”) to make such a report as is mentioned in paragraph 18A(1) in respect of the period of account.

[<sup>F11</sup>(4B) In sub-paragraphs (4) and (4A) “qualified auditor” means a person who—

- (a) is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006, and
- (b) if the appointment were an appointment as a statutory auditor, would not be prohibited from acting by virtue of section 1214 of that Act (independence requirement).]]

(5) The auditor shall make a report to the charity on the accounts audited by him, stating whether in his opinion—

- (a) 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
- (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

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- (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 [<sup>F12</sup>Relevant Authority], determine.]

#### Textual Amendments

- F8** Words in Sch. 1 para. 18(1) repealed (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), s. 270(3)(c), [Sch. 11 para. 20\(3\)](#), [Sch. 16](#)
- F9** Sch. 1 para. 18(4)-(4B) substituted for Sch. 1 para. 18(4) (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), s. 270(3)(c), [Sch. 11 para. 20\(4\)](#)
- F10** Sch. 1 para. 18(4)(a)(b) and words substituted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), [Sch. 8 para. 192\(4\)](#); S.I. 2007/309, art. 2, Sch. (with art. 12)
- F11** Sch. 1 para. 18(4B) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 20](#) (with arts. 6, 11, 12)
- F12** 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](#).

*[<sup>F13</sup>Charities exempt from audit requirements: accountant's report*

#### Textual Amendments

- F13** Sch. 1 para. 18A and cross-heading inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), s. 270(3)(c), [Sch. 11 para. 21](#)

- 18A (1) The report referred to in paragraph 18(4A) is a report—
- (a) relating to the charity's accounts prepared in accordance with paragraph 18(3) in respect of the period of account in question, and
  - (b) complying with sub-paragraphs (2) and (3) below.
- (2) The report must state whether, in the opinion of the reporting accountant—
- (a) the revenue account or accounts and the balance sheet are in agreement with the books of account kept by the charity under paragraph 18(2),
  - (b) on the basis of the information contained in those books of account, the revenue account or accounts and the balance sheet comply with the requirements of the Charities Act 1993, and
  - (c) on the basis of the information contained in those books of account, paragraph 18(4A) applied to the charity in respect of the period of account in question.
- (3) The report must also state the name of the reporting accountant and be signed by him.
- (4) Paragraph 18(7) applies to the reporting accountant and his functions under this paragraph as it applies to an auditor and his functions under paragraph 18.



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- (5) The Relevant Authority may, in respect of a relevant period of account of a charity, give a direction to the charity requiring it—
- (a) to appoint a qualified auditor to audit its accounts for that period, and
  - (b) to furnish to the Relevant Authority a copy of the auditor’s report by such date as is specified in the direction;
- and paragraph 18(5) to (7) apply to an auditor so appointed as they apply to an auditor appointed under paragraph 18.
- (6) For the purposes of sub-paragraph (5), a period of account of a charity is a relevant period of account if—
- (a) it precedes that in which the direction is given; and
  - (b) paragraph 18(4A) applied in relation to it.
- (7) In this paragraph “period of account” and “qualified auditor” have the same meaning as in paragraph 18(4A).]

*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—
- (a) paragraph 16(5) (furnishing of accounts and auditor’s report) is not complied with,
  - (b) the accounts furnished to the [F14Relevant Authority] under that provision do not comply with the accounting requirements laid down under paragraph 16(1),
  - (c) paragraph 18 (accounting and audit [F15 or reporting ] requirements for charities), where applicable, is not complied with,
  - F16(d) .....
  - (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 [F17 level 5 ] 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 [F14Relevant Authority] or the Director of Public Prosecutions.

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[ Where any of paragraphs (a) to (e) of sub-paragraph (2) applies in respect of any <sup>F18</sup>(5) default on the part of a registered social landlord, the High Court may, on the application of the Relevant Authority, make such order as the court thinks fit for requiring the default to be made good.

Any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the registered social landlord or by any of its officers who are responsible for the default.]

#### Textual Amendments

- F14** 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**.
- F15** Words in Sch. 1 para. 19(2)(c) inserted (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), **Sch. 11 para. 22(2)(a)**
- F16** Sch. 1 para. 19(2)(d) repealed (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), Sch. 11 para. 22(2)(b), **Sch. 16**
- F17** Words in Sch. 1 para. 19(2) substituted (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), **Sch. 11 para. 22(2)(c)** (with **Sch. 11 para. 22(3)**)
- F18** Sch. 1 para. 19(5) inserted (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), **Sch. 11 para. 22(4)**

<sup>F19</sup>*Disclosure of information by auditors etc. to the Relevant Authority*

#### Textual Amendments

- F19** Sch. 1 para. 19A and cross-heading inserted (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), **Sch. 11 para. 23**

- 19A (1) A person who is, or has been, an auditor of a registered social landlord does not contravene any duty to which he is subject merely because he gives to the Relevant Authority —
- (a) information on a matter of which he became aware in his capacity as auditor of the registered social landlord, or
  - (b) his opinion on such a matter,
- if he is acting in good faith and he reasonably believes that the information or opinion is relevant to any functions of the Relevant Authority.
- (2) Sub-paragraph (1) applies whether or not the person is responding to a request from the Relevant Authority.
- (3) This paragraph applies to a person who is, or has been, a reporting accountant as it applies to a person who is, or has been, an auditor.
- (4) A “reporting accountant” means a person appointed as mentioned in paragraph 16(7)(b).]]

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