



2010 CHAPTER 9

Registered housing associations

Power to obtain information from registered housing associations

6. In the Order of 1992 for Article 21 substitute—

“General power to obtain information

21.—(1) The Department may for any purpose connected with the discharge of any of its functions in relation to registered housing associations serve a notice on a person requiring him—

- (a) to give to the Department, at a time and place and in the form and manner specified in the notice, such information relating to the affairs of a registered housing association as may be specified or described in the notice, or
 - (b) to produce to the Department or a person authorised by the Department, at a time and place specified in the notice, any documents relating to the affairs of the registered housing association which are specified or described in the notice and are in his custody or under his control.
- (2) A notice under this Article may be served on—
- (a) a registered housing association,
 - (b) any person who is, or has been, an officer, member, employee or agent of a registered housing association,
 - (c) a subsidiary or associate of a registered housing association,

- (d) any person who is, or has been, an officer, member, employee or agent of a subsidiary or associate of a registered housing association, or
 - (e) any other person who the Department has reason to believe is or may be in possession of relevant information.
- (3) No notice shall be served on a person within sub-paragraphs (b) to (e) of paragraph (2) unless—
- (a) a notice has been served on the registered housing association and has not been complied with, or
 - (b) the Department believes that the information or documents in question are not in the possession of the housing association.
- (4) Nothing in this Article authorises the Department to require—
- (a) the disclosure of anything which a person would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court, or
 - (b) the disclosure by a banker of anything in breach of any duty of confidentiality owed by him to a person other than a registered housing association or a subsidiary or associate of a registered housing association.
- (5) A notice under this Article shall be given in writing.
- (6) References in this Article to a document are to anything in which information of any description is recorded; and in relation to a document in which information is recorded otherwise than in legible form, references to producing it are to producing it in legible form.
- (7) Where by virtue of this Article documents are produced to any person, he may take copies of or make extracts from them.
- (8) In this Article—
- “agent” has the meaning given in Article 23(8); and
 - “associate” and “subsidiary” have the same meanings as in Article 23.

Enforcement of notice to provide information, &c.

- 21A.—**(1) A person who without reasonable excuse fails to do anything required of him by a notice under Article 21 commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (2) A person who intentionally alters, suppresses or destroys a document which he has been required by a notice under Article 21 to produce commits an offence and is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum,

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

(3) Proceedings for an offence under paragraph (1) or (2) may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland or the Department.

(4) If a person makes default in complying with a notice under Article 21, the High Court may, on the application of the Department, make such order as the court thinks fit for requiring the default to be made good.

(5) Any such order may provide that all the costs or expenses of, and incidental to, the application shall be borne by the person in default or by any officers of a body who are responsible for its default.

Disclosure of information to the Department

21B.—(1) A body or person to whom this Article applies may, subject to the following provisions, disclose to the Department, for the purpose of enabling the Department to discharge any of its functions relating to registered housing associations, any information received by that body or person under or for the purposes of any statutory provision.

(2) This Article applies to the following bodies and persons—

- (a) any government department (including a department of the Government of the United Kingdom);
- (b) any district council;
- (c) any constable; and
- (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).

(3) This Article has effect subject to any express restriction on disclosure imposed by or under any other statutory provision.

(4) Nothing in this Article shall be construed as affecting any power of disclosure exercisable apart from this Article.

Disclosure of information by the Department

21C.—(1) The Department may disclose to a body or person to whom this Article applies any information received by it relating to a registered housing association—

- (a) for any purpose connected with the discharge of the functions of the Department in relation to such housing association, or
- (b) for the purpose of enabling or assisting that body or person to discharge any of its or his functions.

- (2) This Article applies to the following bodies and persons—
- (a) any government department (including a department of the Government of the United Kingdom);
 - (b) any district council;
 - (c) any constable; and
 - (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).
- (3) Where any information disclosed to the Department under Article 21B is so disclosed subject to any express restriction on the further disclosure of the information, the Department’s power of disclosure under this Article is exercisable subject to that restriction.
- (4) A person who discloses information in contravention of any such restriction commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Any information disclosed by the Department under this Article may be subject by the Department to any express restriction on the further disclosure of the information.
- (6) A person who discloses information in contravention of any such restriction commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Proceedings for an offence under paragraph (6) may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland or the Department.
- (8) Nothing in this Article shall be construed as affecting any power of disclosure exercisable apart from this Article.”.

Restriction on inquiry into affairs of registered housing associations by persons associated with the Executive

7. In Article 23(2) of the Order of 1992 (inquiries into affairs of registered housing associations) after the words “of the Department” insert “or a member or employee of the Executive”.

Department’s powers in cases of misconduct or mismanagement of registered housing associations

8. In Article 25 of the Order of 1992 (Department’s power to act for protection of registered housing associations) after paragraph (3) insert—

“(3A) If, at any time after the commencement of an inquiry under Article 23 or an audit under Article 24, the Department has reasonable grounds to believe —

Status: This is the original version (as it was originally enacted).

- (a) that there has been misconduct or mismanagement as mentioned in paragraph (1) in the administration of a registered housing association, and
- (b) that immediate action is needed to protect the interests of the tenants of the registered housing association or to protect the assets of the association,

the Department may at that time exercise any of the powers conferred by sub-paragraphs (b) to (d) of paragraph (1).”.