



# Housing and Regeneration Act 2008

## 2008 CHAPTER 17

### PART 1

#### THE HOMES AND COMMUNITIES AGENCY

### CHAPTER 1

#### GENERAL

#### **1 Establishment and constitution**

- (1) There shall be a body corporate known as the Homes and Communities Agency (“the HCA”).
- (2) Schedule 1 (which makes further provision about the HCA) has effect.

#### **2 Objects**

- (1) The objects of the HCA are—
  - (a) to improve the supply and quality of housing in England,
  - (b) to secure the regeneration or development of land or infrastructure in England,
  - (c) to support in other ways the creation, regeneration or development of communities in England or their continued well-being, and
  - (d) to contribute to the achievement of sustainable development and good design in England,with a view to meeting the needs of people living in England.
- (2) In subsection (1)—
  - “good design” includes design which has due regard to the needs of elderly persons and disabled persons,
  - “needs” includes future needs,

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and the reference to improving the supply of housing includes a reference to improving the supply of particular kinds of housing.

(3) In this Part—

“building” means a building or other structure (including a house-boat or caravan),

“caravan” has the meaning given by section 29(1) of the Caravan Sites and Control of Development Act 1960 (c. 2),

“housing” means a building, or part of a building, occupied or intended to be occupied as a dwelling or as more than one dwelling; and includes a hostel which provides temporary residential accommodation,

“infrastructure” includes—

- (a) water, electricity, gas, telecommunications, sewerage or other services,
- (b) roads or other transport facilities,
- (c) retail or other business facilities,
- (d) health, educational, employment or training facilities,
- (e) social, religious or recreational facilities,
- (f) cremation or burial facilities, and
- (g) community facilities not falling within paragraphs (a) to (f),

“land” includes housing or other buildings (and see also the definition in Schedule 1 to the Interpretation Act 1978 (c. 30)),

and references to housing include (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, the building or part of building concerned.

(4) See also sections 19(5) (financial assistance), 44 (local government involvement) and 52 (role of the HCA in relation to certain former functions of the Commission for the New Towns).

### **3 Principal powers**

The HCA may do anything it considers appropriate for the purposes of its objects or for purposes incidental to those purposes.

### **4 Powers: general**

(1) This Part contains various specific powers of the HCA.

(2) The specific powers of the HCA (whether contained in this Part or elsewhere) are to be exercised for the purposes of its objects or for purposes incidental to those purposes.

(3) Each power may be exercised separately or together with, or as part of, another power.

(4) Each power does not limit the scope of another power.

(5) Each power does not limit the scope of the powers conferred by section 3.

(6) But—

- (a) subsections (2) and (3) do not apply to the HCA in its capacity as a local planning authority by virtue of sections 13 and 14 or in its exercise of other functions by virtue of those sections, and

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- (b) the powers conferred by section 3 must not be used to override a restriction imposed on the exercise of a specific power.

## CHAPTER 2

### LAND AND INFRASTRUCTURE

#### *General*

#### **5 Powers to provide housing or other land**

- (1) The HCA may provide housing or other land.
- (2) The HCA may facilitate the provision of housing or other land.
- (3) In this section “provide” includes provide by way of acquisition, construction, conversion, improvement or repair (and “provision” is to be read in the same way).

#### **6 Powers for regeneration, development or effective use of land**

- (1) The HCA may regenerate or develop land.
- (2) The HCA may bring about the more effective use of land.
- (3) The HCA may facilitate—
  - (a) the regeneration or development of land, or
  - (b) the more effective use of land.

#### **7 Powers in relation to infrastructure**

- (1) The HCA may provide infrastructure.
- (2) The HCA may facilitate the provision of infrastructure.
- (3) In this section “provide” includes provide by way of acquisition, construction, conversion, improvement or repair (and “provision” is to be read in the same way).

#### *Powers to deal with land etc.*

#### **8 Powers to deal with land etc.**

The HCA may carry out, or facilitate the carrying out of, any of the following activities in relation to land—

- (a) acquiring, holding, improving, managing, reclaiming, repairing or disposing of housing,
- (b) acquiring, holding, improving, managing, reclaiming, repairing or disposing of other land, plant, machinery, equipment or other property, and
- (c) carrying out building and other operations (including converting or demolishing buildings).

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## **9 Acquisition of land**

- (1) The HCA may acquire land by agreement.
- (2) The HCA may acquire land compulsorily if the Secretary of State authorises it to do so.
- (3) The power of acquiring land compulsorily under subsection (2) includes power to acquire new rights over land.
- (4) Subsection (5) applies where—
  - (a) land or new rights over land are being acquired compulsorily under subsection (2), and
  - (b) the land which is being acquired, or over which new rights are being acquired, forms part of a common, open space or allotment.
- (5) The power under subsection (2) to acquire land compulsorily includes the power to acquire land compulsorily for giving in exchange for the land or (as the case may be) new rights mentioned in subsection (4)(a).
- (6) Schedule 2 (which makes further provision in relation to the acquisition of land by the HCA) has effect.
- (7) In this Part—
  - “allotment” means a fuel or field garden allotment,
  - “common” has the meaning given by section 19(4) of the Acquisition of Land Act 1981 (c. 67),
  - “open space” means any land which is—
    - (a) laid out as a public garden,
    - (b) used for the purposes of public recreation, or
    - (c) a disused burial ground.

## **10 Restrictions on disposal of land**

- (1) The HCA may not dispose of land for less than the best consideration which can reasonably be obtained unless the Secretary of State consents.
- (2) Subsection (1) does not apply to a disposal by way of a short tenancy if the disposal consists of—
  - (a) the grant of a term of not more than 7 years, or
  - (b) the assignment of a term which, at the date of assignment, has not more than 7 years to run.
- (3) The HCA may not dispose of land which has been compulsorily acquired by it under this Part unless the Secretary of State consents.
- (4) Subject as above, the HCA may dispose of land held by it in any way it considers appropriate.

### *Powers in relation to acquired land*

## **11 Main powers in relation to acquired land**

Schedule 3 (which makes provision about powers in relation to land of the HCA) has effect.

## **12 Powers in relation to, and for, statutory undertakers**

Schedule 4 (which provides for powers in relation to, and for, statutory undertakers) has effect.

### *Planning*

## **13 Power of Secretary of State to make designation orders**

- (1) The Secretary of State may by order designate an area in England if the Secretary of State considers that—
  - (a) the area is suitable for development, and
  - (b) it is appropriate for the HCA to be the local planning authority for the whole or any part of the area—
    - (i) for particular permitted purposes, and
    - (ii) in relation to particular kinds of development.
- (2) In deciding whether it is appropriate for the HCA to be the local planning authority as mentioned in subsection (1)(b), the Secretary of State must, in particular, be satisfied that making the designation order is likely to improve the effectiveness with which the functions of the local planning authority for the area or part are discharged.
- (3) The Secretary of State must, before making a designation order—
  - (a) publish—
    - (i) a draft of the order, and
    - (ii) the Secretary of State’s reasons for making the order, and
  - (b) consult the persons mentioned in subsection (4).
- (4) The persons are—
  - (a) every local authority any part of whose area is intended to be included in the proposed designated area,
  - (b) any person, other than a local authority, who is the local planning authority for the proposed designated area or any part of it,
  - (c) such persons which appear to the Secretary of State to represent the interests of local authorities as the Secretary of State considers appropriate, and
  - (d) persons who reside or carry on business in the proposed designated area.
- (5) In this Part—

“designated area” means an area designated by a designation order,  
“designation order” means an order under this section,  
“local planning authority”, in relation to a designation order or proposed designation order, means—

  - (a) so far as the order relates to permitted purposes under Part 2 of the Planning and Compulsory Purchase Act 2004 (c. 5), the local planning authority within the meaning of that Part of that Act, and
  - (b) in any other case, the local planning authority within the meaning of Part 1 of the Town and Country Planning Act 1990 (c. 8),

“permitted purposes” means any purposes of—

  - (a) the Town and Country Planning Act 1990 (other than section 137A, Parts 9 and 13, and sections 325A, 329A and 330A, of that Act),

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- (b) the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) (other than section 32A, Chapter 5 of Part 1, and sections 82A to 82F and 88C, of that Act), and
- (c) Part 2 of the Planning and Compulsory Purchase Act 2004,

and references to a designated area, in the case of an area whose boundaries have been amended by an order made under this section by virtue of section 14 of the Interpretation Act 1978 (c. 30), are to be read as references to the designated area as so amended.

- (6) In this section “local authority” means a county council in England, a district council, a London borough council or the Common Council of the City of London.

#### **14 Contents of designation orders**

- (1) A designation order may contain provisions of the following kind.
- (2) The order may provide for the HCA to be the local planning authority for the whole or any part of the designated area—
  - (a) for specified permitted purposes, and
  - (b) in relation to specified kinds of development.
- (3) The order may provide that where the HCA is the local planning authority for the whole or any part of the designated area it is to have—
  - (a) in relation to the whole or any part of the designated area, and
  - (b) subject to any specified modifications,
 specified relevant functions conferred by or under specified planning-related provisions.
- (4) An order which makes provision of the kind mentioned in subsection (2) may make provision about the application of enactments relating to local planning authorities to the HCA in its capacity as the local planning authority by virtue of the order.
- (5) An order which makes provision of the kind mentioned in subsection (3)—
  - (a) may provide for the HCA to have the functions concerned instead of, or concurrently with, other persons who have them,
  - (b) may make provision about the application to the HCA of enactments relating to the functions concerned.
- (6) Provision made by virtue of subsection (4) or (5), or section 320(1)(d) in its application to an order of a kind falling within this section, may, in particular, provide that any enactment—
  - (a) is to apply to the HCA without modification,
  - (b) is to apply to it subject to specified modifications.
- (7) In this section—
  - “planning-related provisions” means—
    - (a) Chapter 1 of Part 6 (other than section 137A), and sections 188 and 330, of the Town and Country Planning Act 1990 (c. 8),
    - (b) sections 32 and 33 to 37, 54 and 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9), and
    - (c) the Planning (Hazardous Substances) Act 1990 (c. 10) (other than sections 30A to 31A and 36C of that Act),

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“relevant functions” means functions of—

- (a) a district council, a London borough council, the Common Council of the City of London, or any other body which is a local authority within the meaning of the Town and Country Planning Act 1990,
- (b) a district planning authority (within the meaning of that Act), or
- (c) a hazardous substances authority (within the meaning of the Planning (Hazardous Substances) Act 1990),

“specified”, in relation to a designation order, means specified or described in the order.

## **15 HCA as local planning authority: local involvement**

- (1) Subsections (2) to (6) apply where a designation order provides for the HCA to be the local planning authority for the whole or any part of the designated area.
- (2) The HCA must prepare and publish a statement of local involvement.
- (3) The statement of local involvement is a statement of the HCA’s policy as to the extent to which it intends to involve persons mentioned in subsection (4) in relation to the exercise by the HCA of functions conferred on it by virtue of the designation order.
- (4) The persons are—
  - (a) every local authority for the designated area or any part of the area in relation to which a function is to be exercised, and
  - (b) persons appearing to the HCA to have special knowledge or experience of matters relevant to functions to be exercised in relation to the area or part.
- (5) The HCA must—
  - (a) keep the statement under review, and
  - (b) publish any revision of it.
- (6) In deciding its policy about the extent of involvement of persons mentioned in subsection (4), the HCA must, in particular, have regard to—
  - (a) the benefits that it might receive from their knowledge and experience, and
  - (b) the nature of the functions concerned.
- (7) Subsection (8) applies where—
  - (a) the HCA establishes a committee for the purpose of exercising functions conferred on the HCA by virtue of a designation order,
  - (b) such a committee establishes a sub-committee for such a purpose, or
  - (c) a new or replacement member is to be appointed to such a committee or sub-committee.
- (8) The HCA must—
  - (a) inform every local authority for the designated area or any part of the area in relation to which the functions are to be, or are being, exercised of—
    - (i) the establishment of the committee or sub-committee concerned, or
    - (ii) (as the case may be) the proposed appointment, and
  - (b) invite the authority to suggest one or more candidates for membership of the committee or (as the case may be) sub-committee.
- (9) In this section “local authority” has the same meaning as in section 13.

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## 16 Regional planning

- (1) Section 4 of the Planning and Compulsory Purchase Act 2004 (c. 5) (assistance for regional planning bodies from certain local authorities) is amended as follows.
- (2) For subsection (4) substitute—
- “(4) These are the authorities which fall within this subsection—
- (a) each of the following if their area or any part of their area is in the RPB’s region—
- (i) a county council;
- (ii) a metropolitan district council;
- (iii) a district council for an area for which there is no county council;
- (iv) a National Park authority; and
- (b) the Homes and Communities Agency if it is the local planning authority for an area or part of an area in the RPB’s region.
- (4A) For the purposes of subsection (4), the Homes and Communities Agency is the local planning authority for an area or part of an area in the RPB’s region if it is the local planning authority for that area or part, or for an area which includes that area or part, by virtue of an order of the kind mentioned in section 14(2) of the Housing and Regeneration Act 2008 (designation orders).
- (4B) In subsections (4) and (4A) “local planning authority” has the same meaning as in Part 1 of the Housing and Regeneration Act 2008 (see section 13(5) of that Act).”
- (3) In subsection (8) after “(5)” insert “other than arrangements with the Homes and Communities Agency”.

*Other powers etc. in relation to land*

## 17 Power to enter and survey land

- (1) Any person authorised by the HCA may, at any reasonable time and subject as follows, enter any land for the purpose of surveying it, or estimating its value, in connection with—
- (a) any proposal for the HCA to acquire that land or any other land, or
- (b) any claim for compensation in respect of any such acquisition.
- (2) A person authorised under subsection (1) to enter any land—
- (a) must, if required, produce evidence of the authority before entering the land, and
- (b) must not demand admission as of right to the land unless the HCA has served notice of the intended entry on every owner or occupier of the land not less than 28 days before the making of the demand.
- (3) A notice under subsection (2)(b) must—
- (a) state the purpose for which entry is required, and
- (b) inform the person to whom it is given of the person’s rights under this section and, if applicable, section 18.



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- (4) A person interested in any land may recover compensation from the HCA in respect of any damage done to the land—
  - (a) in the exercise of a right of entry under this section, or
  - (b) in making a survey under this section.
- (5) Section 118 of the Town and Country Planning Act 1990 (c. 8) (determination of claims for compensation) applies in relation to compensation under subsection (4) as it applies in relation to compensation under Part 4 of that Act.
- (6) A person (“A”) commits an offence if A intentionally obstructs another person (“B”) in the exercise of B’s powers under subsection (1) above.
- (7) A person who commits an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (8) In subsection (2)(b) “owner” has the same meaning as in the Acquisition of Land Act 1981 (c. 67).
- (9) The references in subsections (4) and (6) to this section or subsection (1) include references to those provisions as extended by section 18.

## **18 Section 17: supplementary**

- (1) The power to survey land conferred by section 17(1) includes power to search and bore for the purpose of ascertaining—
  - (a) the nature of the subsoil, or
  - (b) the presence of minerals in it.
- (2) But this is subject to subsections (3) to (5).
- (3) No person may carry out any works authorised by virtue of subsection (1) unless notice of the person’s intention to do so was included in the notice required by section 17(2)(b).
- (4) The authority of the appropriate Minister is required for the carrying out of any works authorised by virtue of subsection (1) if—
  - (a) the land concerned is held by statutory undertakers, and
  - (b) they object to the proposed works on the ground that the execution of the works would be seriously detrimental to carrying on their undertaking.
- (5) The references in subsection (4) to the appropriate Minister, statutory undertakers and their undertaking have the same meanings as they have in section 325(9) of the Town and Country Planning Act 1990 (c. 8) (supplementary provisions as to rights of entry).

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## CHAPTER 3

### FINANCIAL PROVISION

#### *Powers to give financial assistance*

#### **19 Financial assistance**

- (1) The HCA may, with the consent of the Secretary of State, give financial assistance to any person.
- (2) Financial assistance under this section may be given in any form.
- (3) Financial assistance under this section may, in particular, be given by way of—
  - (a) grants,
  - (b) loans,
  - (c) guarantee or indemnity,
  - (d) investment, or
  - (e) incurring expenditure for the benefit of the person assisted.
- (4) Financial assistance under this section may be given on such terms and conditions as the HCA considers appropriate (including provision for repayment, with or without interest).
- (5) The objects of the HCA are not to be read as preventing the HCA from exercising functions in relation to financial assistance (whether under this section or otherwise) which—
  - (a) are transferred to the HCA from the Housing Corporation by virtue of this Act, or
  - (b) would supersede functions of the Housing Corporation,in ways corresponding to those in which the Housing Corporation could have exercised its functions.
- (6) See also sections 31 to 35 (further provision about certain types of financial assistance: social housing).

#### *Borrowing powers of the HCA*

#### **20 Powers to borrow**

- (1) The HCA may, for the purpose of what it considers to be the short-term management of its finances, borrow from any person by way of overdraft or otherwise.
- (2) Subject to this, the HCA may only borrow from the Secretary of State or the European Investment Bank.
- (3) The HCA may not borrow in currencies other than sterling.

#### **21 Loans by the Secretary of State**

- (1) The Secretary of State may lend to the HCA any sums it has power to borrow from the Secretary of State under section 20.

- (2) Loans under subsection (1) may be made on such terms and conditions as the Secretary of State considers appropriate (including provision for repayment with or without interest).

## **22 Guarantees by the Secretary of State**

- (1) The Secretary of State may guarantee—
- (a) the repayment of the principal of any sums which the HCA borrows from a person other than the Secretary of State, and
  - (b) the payment of interest on such sums.
- (2) Such a guarantee is to be in such manner, and on such terms and conditions, as the Secretary of State considers appropriate.
- (3) The Secretary of State must lay a statement of any such guarantee before Parliament immediately after giving the guarantee.
- (4) The Secretary of State must lay before Parliament a statement relating to any sum issued for fulfilling such a guarantee.
- (5) A statement under subsection (4) must be laid as soon as possible after the end of each financial year—
- (a) beginning with that in which the sum is issued, and
  - (b) ending with that in which all liability in respect of the principal of the sum guaranteed, and of interest on it, is finally discharged.
- (6) In respect of any sums issued in fulfilment of a guarantee given under this section, the HCA must make payments to the Secretary of State—
- (a) of such amounts as the Secretary of State may direct in or towards repayment of those sums, and
  - (b) of interest on what is outstanding in respect of those sums, at such rates as the Secretary of State may direct.
- (7) Payments under subsection (6) must be made at such times, and in such manner, as the Secretary of State may direct.

## **23 Financial limits**

- (1) The current borrowings of the HCA must not exceed £2,300 million.
- (2) The Secretary of State may by order amend subsection (1) so as to specify a greater amount than that for the time being specified there.
- (3) But an order under subsection (2) may not specify an amount of more than £3,000 million.
- (4) In this section “current borrowings of the HCA” means—
- (a) the aggregate amount at any time of—
    - (i) sums borrowed by the HCA under section 20, and
    - (ii) sums borrowed by subsidiaries of the HCA (other than from the HCA), less
  - (b) repayments made, or treated as made, in respect of those sums.

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- (5) In this Part “subsidiary” has the meaning given by section 1159 of the Companies Act 2006 (c. 46).

#### *Other*

### **24 Power to charge for certain activities**

- (1) The HCA may impose charges for, or in connection with, anything done by it by virtue of section 38, 39 or 45.
- (2) Any such charges must be of such amounts as the HCA considers to be reasonable.

### **25 Directions as to surplus funds**

- (1) Subsection (2) applies if the Secretary of State considers that the HCA or any subsidiary of the HCA 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.
- (2) The Secretary of State may give a direction to the HCA to pay to the Secretary of State such sum not exceeding the amount of the surplus as may be specified in the direction.
- (3) The Secretary of State must consult the HCA before coming to a decision of the kind mentioned in subsection (1) or giving a direction as mentioned in subsection (2).
- (4) The Secretary of State may decide to treat the whole or part of any payment under subsection (2) as made—
- (a) by way of repayment of such part of the principal of loans under section 21(1), and
  - (b) in respect of the repayments due at such times,
- as the Secretary of State may decide.

### **26 Duty to act as agent in respect of regeneration and development**

- (1) The Secretary of State may appoint the HCA to act as the agent of the Secretary of State in connection with such financial assistance functions as the Secretary of State may specify.
- (2) In subsection (1) “financial assistance functions” means, so far as exercisable in relation to England, functions under sections 126 to 128 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53) (financial assistance for regeneration and development).
- (3) An appointment under this section is to be on such terms as the Secretary of State may specify.
- (4) The HCA must, if appointed, act as agent in accordance with the terms of its appointment.

### **27 Duty to act as agent in respect of derelict land etc.**

- (1) The Secretary of State may appoint the HCA to act as the agent of the Secretary of State in connection with such derelict land functions as the Secretary of State may specify.

- (2) In subsection (1) “derelict land functions” means functions under—
  - (a) section 1 of the Derelict Land Act 1982 (c. 42) (grants for reclaiming or improving land or bringing land into use), or
  - (b) any enactment superseded by that section,but excluding the powers to make orders under section 1(5) and (7) of that Act.
- (3) An appointment under this section is to be on such terms as the Secretary of State may specify.
- (4) The HCA must, if appointed, act as agent in accordance with the terms of its appointment.

## CHAPTER 4

### OTHER FUNCTIONS OF THE HCA

#### *General*

#### **28 Business**

- (1) The HCA may carry on any business.
- (2) In subsection (1) “business” includes undertaking.

#### **29 Powers to form companies etc.**

The HCA may, with the consent of the Secretary of State, form, or acquire interests in, bodies corporate.

#### **30 Community services**

The HCA may provide such services for communities as it considers appropriate or facilitate the provision of such services.

#### *Social housing*

#### **31 Duties in relation to social housing**

- (1) Subsection (2) applies if the HCA acquires, constructs or converts any housing or other land for use as low cost rental accommodation.
- (2) The HCA must ensure that a relevant provider of low cost rental accommodation is the landlord of the accommodation when it is made available for rent.
- (3) Subsection (4) applies if the HCA disposes of any housing or other land to a person on condition that the person provides low cost rental accommodation (whether in the same or different housing or other land).
- (4) The HCA must impose a further condition that a relevant provider of low cost rental accommodation is the landlord of the accommodation when it is made available for rent.

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- (5) Subsection (6) applies if the HCA provides infrastructure to a person on condition that the person provides low cost rental accommodation.
- (6) The HCA must impose a further condition ensuring that a relevant provider of low cost rental accommodation is the landlord of the accommodation when it is made available for rent.
- (7) Subsection (8) applies if the HCA is proposing to give financial assistance on condition that the recipient provides low cost rental accommodation.
- (8) The HCA must impose a further condition ensuring that a relevant provider of low cost rental accommodation is the landlord of the accommodation when it is made available for rent.
- (9) Subsection (10) applies if the HCA is proposing to give financial assistance on condition that the recipient provides low cost home ownership accommodation.
- (10) The HCA must consult the Regulator of Social Housing about the proposals.
- (11) For the purposes of this section, a person provides low cost rental accommodation or low cost home ownership accommodation if (and only if) the person acquires, constructs or converts any housing or other land for use as low cost rental accommodation or (as the case may be) low cost home ownership accommodation or ensures such acquisition, construction or conversion by another.
- (12) In this section—
  - “English local housing authority” means a local housing authority (within the meaning of section 1 of the Housing Act 1985 (c. 68)) but excluding a Welsh county council or county borough council,
  - “low cost home ownership accommodation” has the meaning given by section 70,
  - “low cost rental accommodation” has the meaning given by section 69,
  - “relevant provider of low cost rental accommodation” means a registered provider of social housing, an English local housing authority, a county council in England or a person controlled by an English local housing authority or county council in England (and regulations under subsections (5) and (6) of section 113 apply for the purposes of this definition as they apply for the purposes of subsection (4) of that section).

## **32 Recovery etc. of social housing assistance**

- (1) The HCA may, in such events as it may determine, exercise the powers conferred by subsections (2) to (4) in relation to a person who has received social housing assistance.
- (2) The HCA may reduce any grant payable by it or restrict any other social housing assistance due from it.
- (3) The HCA may suspend or cancel any instalment of any grant payable by it or any aspect of any other social housing assistance due from it.
- (4) The HCA may direct the recipient of any social housing assistance given by way of grant to—

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- (a) apply or appropriate for such purposes of the recipient as the HCA may specify, or
  - (b) pay to the HCA,such amount as the HCA may specify.
- (5) The HCA may not specify an amount which exceeds the recoverable amount.
- (6) The recoverable amount is—
  - (a) the total amount of grant received by the person to whom the direction is given, less
  - (b) the total of any amounts applied, appropriated or paid in accordance with any previous directions given in respect of that grant under subsection (4),and for the purposes of paragraph (b) any amounts provided for by virtue of section 33(1) are to be ignored.
- (7) Subsection (5) is without prejudice to the power of the HCA under section 33(1).
- (8) In exercising its powers under subsections (2) to (4) the HCA must act in accordance with such principles as it has determined.
- (9) A person who has received social housing assistance must notify the HCA if an event of a kind determined by the HCA under subsection (1) occurs after the assistance has been given.
- (10) Such a person must, if required by notice of the HCA, supply the HCA with such particulars of, and information relating to, the event as are specified in the notice.
- (11) The HCA must notify the Regulator of Social Housing at least 14 days before exercising, in relation to a registered provider of social housing, any of the powers conferred by subsections (2) to (4).
- (12) Events determined by the HCA under subsection (1), and principles determined by the HCA under subsection (8), must be determined on or before the time the HCA gives the social housing assistance concerned unless they are determined subsequently with the agreement of the recipient of the assistance.
- (13) In this Part—
  - “social housing” has the same meaning as in Part 2,
  - “social housing assistance” means financial assistance given under section 19 on condition that the recipient provides social housing (whether by itself or as part of a wider project);and, for the purposes of this Part, a person provides social housing if (and only if) the person acquires, constructs, converts, improves or repairs any housing or other land for use as social housing or ensures such acquisition, construction, conversion, improvement or repair by another.

### **33 Section 32: interest and successors in title**

- (1) A direction by the HCA under section 32(4) may require the application, appropriation or payment, in addition to the specified amount, of one or more of the following—
  - (a) interest on the specified amount,
  - (b) an amount calculated by reference to any increase in the market value of any housing or other land acquired, constructed, converted, improved or repaired as a result of the grant, and

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- (c) interest on the amount falling within paragraph (b).
- (2) Any direction falling within subsection (1)(a) or (c) must specify—
  - (a) the applicable rate or rates of interest (whether fixed or variable),
  - (b) the date from which interest is payable, and
  - (c) any provision for suspended or reduced interest which is applicable.
- (3) The date specified under subsection (2)(b) must not be earlier than the date of the event giving rise to the power to give a direction.
- (4) In subsection (2)(c)—
  - (a) provision for suspended interest means provision to the effect that if the principal amount is applied, appropriated or paid before a date specified in the direction, no interest will be payable for any period after the date of the direction, and
  - (b) provision for reduced interest means provision to the effect that if the principal amount is so applied, appropriated or paid, any interest payable will be payable at a rate or rates lower than the rate or rates which would otherwise be applicable.
- (5) Any direction falling within subsection (1)(b) must specify—
  - (a) the housing or other land concerned, and
  - (b) the method of calculating the amount concerned.
- (6) Subsection (7) applies if—
  - (a) social housing assistance has been given to a person, and
  - (b) at any time the social housing provided as a result of the assistance becomes vested in, or is leased for a term of years to, or reverts to, another person.
- (7) Section 32 and this section (including this subsection) have effect in relation to periods after that time as if the assistance, or such element of it as may be determined by the HCA to be appropriate, had been given to that other person.
- (8) The matters specified in a direction under subsection (2)(a) to (c) or (5), and the element mentioned in subsection (7), are to be—
  - (a) such as the HCA, acting in accordance with such principles as it may determine, may specify as being appropriate, or
  - (b) such as the HCA may determine to be appropriate in the particular case.
- (9) Principles determined by the HCA under subsection (8)(a), and determinations by the HCA under subsection (8)(b), must be determined on or before the time the HCA gives the social housing assistance concerned unless they are determined subsequently with the agreement of the recipient of the assistance.

### **34 Determinations under sections 32 and 33**

- (1) The HCA must not make a general determination under section 32 or 33 without the consent of the Secretary of State.
- (2) Before making such a determination, the HCA must consult—
  - (a) the Regulator of Social Housing, and
  - (b) such other persons as it considers appropriate.



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- (3) Subsection (4) applies if a general determination under section 32 or 33 about relevant events relates to social housing assistance given to a registered provider of social housing.
- (4) The HCA must, in particular, consult such bodies appearing to it to represent the interests of registered providers of social housing as it considers appropriate.
- (5) The HCA must publish a general determination made under section 32 or 33 in such manner as it considers appropriate for bringing the determination to the attention of those affected by it.
- (6) A general determination of the HCA under section 32 or 33 may make different provision for different cases or descriptions of case (including different provision for different areas).
- (7) For the purposes of subsection (6) descriptions may be framed by reference to any matters whatever.
- (8) A determination of the HCA under section 32 or 33 may be varied or revoked by it (subject to any provision as to the time by which such a determination must be made).
- (9) In this section—
  - “general determination” means a determination which does not relate solely to a particular case,
  - “relevant event” means an event of a kind determined by the HCA under section 32(1).

### **35 Duty to give financial assistance in respect of certain disposals**

- (1) The HCA must exercise its powers under section 19 to give financial assistance by way of grant to a relevant provider of social housing in respect of any discount given by the provider—
  - (a) to a person exercising the right to acquire conferred by section 180, or
  - (b) on a disposal of a dwelling in England by the provider to a qualifying tenant otherwise than in pursuance of the right conferred by that section.
- (2) In subsection (1)(b) “qualifying tenant” means a tenant who was entitled to exercise the right to acquire conferred by section 180, or by section 16 of the Housing Act 1996 (c. 52), in relation to a dwelling of the relevant provider of social housing other than the dwelling being disposed of by the provider.
- (3) The amount of the grant given by virtue of subsection (1)(a) to a relevant provider of social housing for any year is to be the aggregate value of the discounts given by that provider in that year.
- (4) The amount of the grant given by virtue of subsection (1)(b) to a relevant provider of social housing must not exceed the amount of the discount to which the tenant would have been entitled in respect of the other dwelling.
- (5) The HCA must specify—
  - (a) the procedure to be followed in relation to applications for a grant by virtue of this section,
  - (b) in the case of a grant by virtue of subsection (1)(b), the method for calculating, and any other limitations on, the amount of the grant,

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- (c) the manner in which, and time or times at which, a grant by virtue of this section is to be paid,
- (d) any other terms or conditions on which such a grant is given.

(6) In this section—

- “dwelling” has the same meaning as in Part 2,
- “registered provider of social housing” includes a person falling within section 180(3),
- “registered social landlord” has the same meaning as in Part 1 of the Housing Act 1996,
- “relevant provider of social housing” means—
  - (a) a registered provider of social housing, or
  - (b) a registered social landlord,
- “tenant” has the same meaning as in Part 2.

### **36 Information in relation to social housing**

- (1) The Secretary of State may by order provide for the HCA to supply such information about—
  - (a) which accommodation provided directly or indirectly by it is to be social housing,
  - (b) the type of social housing to be so provided, and
  - (c) the consequences of it being social housing,
 as may be specified or described in the order.
- (2) An order under this section may, in particular, provide for—
  - (a) the person or persons to whom the information is to be provided,
  - (b) the time at which, or period or frequency within which, the information is to be provided,
  - (c) the form and manner in which the information is to be provided.

### **37 Duty to co-operate with Regulator of Social Housing**

- (1) The HCA must co-operate with the Regulator of Social Housing.
- (2) In particular, the HCA must consult the regulator on matters likely to interest the regulator.

*Information, education and guidance etc.*

### **38 Information services**

- (1) The HCA may—
  - (a) publish ideas or information, or
  - (b) disseminate or promote ideas or information in other ways.
- (2) The HCA may undertake research or experimentation.
- (3) The HCA may provide other information services.
- (4) The HCA may facilitate—

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- (a) the publication or other dissemination or promotion of ideas or information,
- (b) research or experimentation, or
- (c) the provision of other information services.

### **39 Advice, education and training**

- (1) The HCA may provide—
  - (a) advice, education or training, or
  - (b) other advisory, education or training services.
- (2) The HCA may facilitate the provision of—
  - (a) advice, education or training, or
  - (b) other advisory, education or training services.

### **40 Guidance**

- (1) The HCA may give guidance to such persons as it considers appropriate about any matters relating to its objects.
- (2) Before giving guidance under this section, the HCA must consult such persons as it considers appropriate.
- (3) As soon as reasonably practicable after giving guidance under this section, the HCA must take such steps as the HCA considers appropriate to bring it to the attention of those affected by it.
- (4) The HCA may revoke guidance given under this section.
- (5) The HCA—
  - (a) must, before revoking guidance under this section, consult such persons as it considers appropriate, and
  - (b) must, as soon as reasonably practicable after the revocation, take such steps as it considers appropriate to bring the revocation to the attention of those affected by it.
- (6) References in this section to giving guidance include references to giving guidance by varying existing guidance.

#### *Functions in relation to companies and other persons*

### **41 Control of subsidiaries**

- (1) The HCA must ensure that no subsidiary of the HCA engages, without the consent of the Secretary of State, in an activity which the HCA would not be required or permitted to carry on.
- (2) The HCA must ensure that no subsidiary of the HCA—
  - (a) borrows from a person other than the HCA, or
  - (b) raises money by the issue of shares or stock to a person other than the HCA, without the consent of the Secretary of State.

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#### **42 Agency arrangements with UDCs**

- (1) The HCA may, with the consent of the Secretary of State, appoint an urban development corporation to act as its agent.
- (2) The appointment—
  - (a) may be in connection with any of the functions of the HCA other than its functions in connection with Chapter 3, and
  - (b) is to be on such terms as may be agreed.
- (3) The appointment must specify the functions in connection with which it is made.
- (4) An urban development corporation must act as agent in accordance with the terms of its appointment.
- (5) An urban development corporation may arrange for any of its property or staff to be made available to the HCA if—
  - (a) the purpose is to assist the HCA to exercise any of its functions, and
  - (b) the HCA asks the urban development corporation to make the property or staff available.
- (6) The property or staff are to be made available for such period, and on such other terms, as the urban development corporation considers appropriate.
- (7) In this Part “urban development corporation” means a corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980 (c. 65).

#### **43 Acting with, or for, other persons: general**

- (1) The HCA may act with other persons (whether in partnership or otherwise).
- (2) The HCA may act as agent for other persons.

#### **44 Local government involvement**

- (1) The HCA must from time to time consult such representatives of local government as the HCA considers appropriate about how the HCA pursues its objects.
- (2) The HCA must from time to time publish a statement about how it proposes to comply with subsection (1).
- (3) Before publishing a statement the HCA must consult such persons as it considers appropriate.

*Other*

#### **45 Support services**

- (1) The HCA may provide services in support of a project.
- (2) The HCA may, in particular—
  - (a) second staff to the project,
  - (b) provide consultants or other manpower resources to the project on a temporary basis, or

- (c) lend or otherwise provide technical, property or other resources to the project.
- (3) The HCA may facilitate the provision of services in support of a project.

## CHAPTER 5

### SUPPLEMENTARY

#### *Certain supervisory powers of the Secretary of State*

#### **46 Guidance by the Secretary of State**

- (1) The Secretary of State may give guidance to the HCA as to the exercise of any of its functions.
- (2) Before giving guidance under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (3) The Secretary of State must publish any guidance given under this section as soon as reasonably practicable after giving it.
- (4) The Secretary of State may revoke guidance given under this section.
- (5) The Secretary of State must—
  - (a) consult, before revoking guidance under this section, such persons as the Secretary of State considers appropriate, and
  - (b) publish the fact that the guidance has been revoked as soon as reasonably practicable after the revocation.
- (6) The HCA must, in exercising its functions, have regard to any guidance for the time being in force under this section.
- (7) References in this section to giving guidance include references to giving guidance by varying existing guidance.

#### **47 Directions by the Secretary of State**

- (1) The Secretary of State may give the HCA general or specific directions as to the exercise of any of its functions.
- (2) The Secretary of State must publish any directions given by the Secretary of State under this Part as soon as reasonably practicable after giving them.
- (3) The Secretary of State—
  - (a) may revoke any directions given by the Secretary of State under this Part, and
  - (b) must publish the fact that the directions have been revoked as soon as reasonably practicable after the revocation.
- (4) The HCA must comply with any directions of the Secretary of State in force under this Part.
- (5) Subsections (2) and (3)(b) do not apply to directions given under section 22 or paragraph 7 of Schedule 1; and this section does not apply to directions given under Schedule 4.

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- (6) References in this Part to the Secretary of State giving directions include references to the Secretary of State giving directions by varying existing directions.

#### **48 Consents of the Secretary of State**

- (1) Any consent of the Secretary of State required under this Part may be given—
- (a) unconditionally or subject to conditions, and
  - (b) generally or specifically.
- (2) The Secretary of State may vary or revoke any such consent except in the case of anything already done, or agreed to be done, on the authority of it.
- (3) A variation or revocation under subsection (2) does not have effect until the Secretary of State has served notice of it on the HCA or (as the case may be) the other person to whom the consent is given.

#### *Abolition of existing bodies*

#### **49 Abolition of Urban Regeneration Agency**

The Urban Regeneration Agency shall cease to exist on such day as the Secretary of State may by order appoint.

#### **50 Abolition of the Commission for the New Towns**

- (1) The Commission for the New Towns shall cease to exist on such day as the Secretary of State may by order appoint.
- (2) Schedule 5 (which transfers Welsh functions of the Commission to the Welsh Ministers and makes other amendments of the New Towns Act 1981 (c. 64)) has effect.

#### **51 Property etc. transfers to the HCA and the Welsh Ministers**

- (1) The Secretary of State may make one or more schemes for—
- (a) the transfer to the HCA of designated property, rights or liabilities of—
    - (i) the Urban Regeneration Agency,
    - (ii) the Commission for the New Towns,
    - (iii) a regional development agency (within the meaning of the Regional Development Agencies Act 1998 (c. 45)), or
    - (iv) a Minister of the Crown, or
  - (b) the transfer to the Welsh Ministers of designated property, rights or liabilities of—
    - (i) the Urban Regeneration Agency, or
    - (ii) the Commission for the New Towns.
- (2) On the transfer date, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.
- (3) Schedule 6 (which makes further provision about the making of schemes) has effect.
- (4) In this section and in Schedule 6—

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“designated” in relation to a scheme, means specified in, or determined in accordance with, the scheme,

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26),

“the transfer date” means a date specified by a scheme as the date on which the scheme is to have effect.

- (5) Schedule 7 makes provision about the tax implications of schemes under this section (and schemes under section 65).

## **52 Role of the HCA in relation to former CNT functions**

- (1) The HCA must, so far as practicable, exercise its powers in relation to—
- (a) any property, rights or liabilities of the Commission for the New Towns transferred to it by virtue of section 51 and Schedule 6,
  - (b) any property, rights or liabilities of a new town development corporation transferred to it by virtue of section 41 of, and Schedule 10 to, the New Towns Act 1981 (c. 64),
  - (c) any undertaking, or part of an undertaking, of an urban development corporation transferred to it by virtue of an agreement under section 165 of the Local Government, Planning and Land Act 1980 (c. 65), or
  - (d) any property, rights or liabilities of an urban development corporation transferred to it by virtue of an order under section 165B of that Act,
- for the purposes of the objects mentioned in section 2(1) or for purposes incidental to those purposes.
- (2) But subsection (1) does not apply if the HCA does not consider it appropriate to exercise its powers in this way having regard, in particular, to the purposes for which the transferred property was held by the Commission for the New Towns, the new town development corporation or (as the case may be) the urban development corporation.
- (3) In such a case, the HCA must exercise its powers in relation to the transferred property in such a way as it considers appropriate having regard, in particular, to—
- (a) the objects mentioned in section 2(1), and
  - (b) the purposes for which the transferred property was held by the body concerned,
- and the references in this Part to the objects of the HCA are to be read accordingly.
- (4) In this section—
- “new town development corporation” means a development corporation established under section 3 of the New Towns Act 1981 (c. 64),
- “transferred property” means any property, rights or liabilities, or any undertaking or part of an undertaking, falling within paragraphs (a) to (d) of subsection (1) above.

## **53 Interim arrangements**

- (1) The Secretary of State may by notice require the Urban Regeneration Agency or the Commission for the New Towns to provide staff, premises, facilities or other assistance on a temporary basis to—
- (a) the HCA, or

- (b) the Welsh Ministers.
- (2) In paragraph 1(1) of Schedule 17 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) (constitution of the Urban Regeneration Agency: number of members), for “six” substitute “two”.
- (3) This section is without prejudice to the power of the Secretary of State under section 322(1).

*Other*

#### **54 Validity of transactions**

- (1) A transaction between a person and the HCA is not invalid merely because of a failure by the HCA to exercise its powers for the purposes mentioned in sections 3 and 4(2).
- (2) A transaction between a person and the HCA is not invalid merely because it was carried out in contravention of a direction under section 47.
- (3) A transaction between a person and a subsidiary of the HCA is not invalid merely because of a failure by the HCA to comply with section 41(1) or (2).
- (4) A person entering into a transaction with the HCA or a subsidiary of the HCA need not be concerned as to whether—
  - (a) there has been a failure of the kind mentioned in subsection (1) or (3), or
  - (b) a direction of the kind mentioned in subsection (2) has been given or complied with.
- (5) A disposal of land by the HCA is not invalid merely because any consent required by section 10(1) or (3) has not been given.
- (6) A person dealing with—
  - (a) the HCA, or
  - (b) a person claiming under the HCA,
 in relation to any land need not be concerned as to whether any consent required by section 10(1) or (3) has been given.

#### **55 Notices**

- (1) Any notice required or authorised under this Part to be served on any person may be served by—
  - (a) delivering it to the person,
  - (b) leaving it at the person’s proper address, or
  - (c) sending it by post to the person at that address.
- (2) Any such notice may—
  - (a) in the case of a body corporate, be served in accordance with subsection (1) on an officer of the body, and
  - (b) in the case of a partnership, be served in accordance with subsection (1) on a partner or a person having the control or management of the partnership business.



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- (3) For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of any person on whom a notice is to be served is the person's last known address except as follows.
- (4) For the purposes of this section and section 7 of the Act of 1978 in its application to this section, the proper address is—
  - (a) in the case of service on a body corporate or an officer of the body, the address of the registered or principal office of the body, and
  - (b) in the case of service on a partnership, a partner or a person having the control or management of the partnership business, the address of the principal office of the partnership.
- (5) For the purposes of subsection (4) the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.
- (6) Subsection (7) applies if a person to be served under this Part with a notice has specified an address within the United Kingdom other than the person's proper address (as decided under subsections (3) and (4)) as the one at which the person, or someone on the person's behalf, will accept documents of the same description as the notice.
- (7) The specified address is also to be treated for the purposes of this section and section 7 of the Act of 1978 in its application to this section as the person's proper address.
- (8) Subsection (9) applies if the name or address of any owner, lessee or occupier of land on whom a notice is to be served under this Part cannot, after reasonable inquiry, be ascertained.
- (9) The notice may be served by—
  - (a) leaving it in the hands of a person who is, or appears to be, resident or employed on the land, or
  - (b) leaving it conspicuously affixed to a building or object on the land.
- (10) Any notice required or authorised under this Part to be served on any person may be served on the person by transmitting the text of the notice to the person by means of an electronic communications network or by other means but while in electronic form provided the text is received by the person in legible form and is capable of being used for subsequent reference.
- (11) In this section—
  - “body corporate” includes a limited liability partnership,
  - “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate,
  - “officer of a body corporate” means any director, manager, secretary or other similar officer of the body corporate,
  - “partnership” does not include a limited liability partnership,and references to serving include references to similar expressions (such as giving or sending).

## 56 Consequential amendments: Part 1

Schedule 8 (which contains amendments of enactments) has effect.

## 57 Interpretation: Part 1

(1) In this Part—

“conduit system” has the same meaning as in the electronic communications code; and references to providing a conduit system are to be read in accordance with paragraph 1(3A) of that code,

“develop” (and development), in relation to land or infrastructure, includes redevelop (and redevelopment),

“electronic communications apparatus” has the same meaning as in the electronic communications code,

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the Communications Act 2003 (c. 21),

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the Act of 2003 (application of the electronic communications code), and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide,

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the Act of 2003,

“electronic communications network” has the same meaning as in the Act of 2003,

“enactment” includes subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)),

“financial year” means—

(a) the period beginning with the day on which the HCA is established and ending with the next 31 March, and

(b) each subsequent period of 12 months ending with 31 March,

“improve”, in relation to housing and other land, includes refurbish, equip and fit out,

“modifications” includes omissions,

“notice” means notice in writing,

“operator”, in relation to an electronic communications code network means—

(a) the electronic communications code operator providing that network, or

(b) the Secretary of State, so far as the Secretary of State is providing or proposing to provide that network,

“provide” and related expressions, in relation to an electronic communications network, are to be read in accordance with section 32(4) of the Communications Act 2003 (c. 21).

(2) References in this Part to powers of the HCA do not include references to powers contained in duties imposed on the HCA.

## 58 Index of defined expressions: Part 1

In this Part, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions listed in the right-hand column.

<i>Expression</i>	<i>Provision</i>
Allotment	Section 9(7)
Building	Section 2(3)
Caravan	Section 2(3)
Common	Section 9(7)
Conduit system (and providing such a system)	Section 57(1)
Designated area	Section 13(5)
Designation order	Section 13(5)
Develop (and development)	Section 57(1)
Electronic communications apparatus	Section 57(1)
Electronic communications code	Section 57(1)
Electronic communications code network	Section 57(1)
Electronic communications code operator	Section 57(1)
Electronic communications network	Section 57(1)
Enactment	Section 57(1)
Financial year	Section 57(1)
Giving directions	Section 47(6)
The HCA	Section 1(1)
Housing	Section 2(3)
Improve	Section 57(1)
Infrastructure	Section 2(3)
Land	Section 2(3) (and Schedule 1 to the Interpretation Act 1978 (c. 30))
Local planning authority (in relation to designation orders or proposed designation orders)	Section 13(5)
Modifications	Section 57(1)
Notice	Section 57(1)
Objects of the HCA	Sections 2, 19(5) and 52(3)
Open space	Section 9(7)
Operator (in relation to electronic communications code network)	Section 57(1)

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<i>Expression</i>	<i>Provision</i>
Permitted purposes	Section 13(5)
Powers of the HCA	Section 57(2)
Provide (in relation to an electronic communications network)	Section 57(1)
Registered provider of social housing	Section 80(2)(a)
Regulator of Social Housing	Section 81(2)(a)
Social housing (and its provision)	Section 32(13)
Social housing assistance	Section 32(13)
Subsidiary	Section 23(5)
Urban development corporation	Section 42(7)