



Housing Associations Act 1985

1985 CHAPTER 69

PART I

REGULATION OF HOUSING ASSOCIATIONS

Introductory

1 Meaning of "housing association " and related expressions

- (1) In this Act "housing association" means a society, body of trustees or company—
- which is established for the purpose of, or amongst whose objects or powers are included those of, providing, constructing, improving or managing, or facilitating or encouraging the construction or improvement of, housing accommodation, and
 - which does not trade for profit or whose constitution or rules prohibit the issue of capital with interest or dividend exceeding such rate as may be prescribed by the Treasury, whether with or without differentiation as between share and loan capital.
- (2) In this Act "fully mutual", in relation to a housing association, means that the rules of the association—
- restrict membership to persons who are tenants or prospective tenants of the association, and
 - preclude the granting or assignment of tenancies to persons other than members ;
- and " co-operative housing association " means a fully mutual housing association which is a society registered under the Industrial and Provident Societies Act 1965 (in this Part referred to as " the 1965 Act").
- (3) In this Act " self-build society " means a housing association whose object is to provide, for sale to, or occupation by, its members, dwellings built or improved principally with the use of its members' own labour.

2 **Meaning of " housing trust"**

In this Act " housing trust" means a corporation or body of persons which—

- (a) is required by the terms of its constituent instrument to use the whole of its funds, including any surplus which may arise from its operations, for the purpose of providing housing accommodation, or
- (b) is required by the terms of its constituent instrument to devote the whole, or substantially the whole, of its funds to charitable purposes and in fact uses the whole, or substantially the whole, of its funds for the purpose of providing housing accommodation.

Registration

3 **The register**

- (1) A register of housing associations shall be maintained by the Housing Corporation and shall be open to inspection at the head office of the Corporation at all reasonable times.
- (2) In this Act " registered " and " unregistered ", and other references to registration, in relation to a housing association, refer to registration in the register of housing associations maintained under this section.

4 **Eligibility for registration**

- (1) A housing association is eligible for registration if it is—
 - (a) a registered charity, or
 - (b) a society registered under the 1965 Act which fulfils the following conditions.
- (2) The conditions are that the association does not trade for profit and is established for the purpose of, or has among its objects or powers, the provision, construction, improvement or management of—
 - (a) houses to be kept available for letting, or
 - (b) houses for occupation by members of the association, where the rules of the association restrict membership to persons entitled or prospectively entitled (as tenants or otherwise) to occupy a house provided or managed by the association, or
 - (c) hostels,
 and that any additional purposes or objects are among the following.
- (3) The permissible additional purposes or objects are—
 - (a) providing land or buildings for purposes connected with the requirements of the persons occupying the houses or hostels provided or managed by the association;
 - (b) providing amenities or services for the benefit of those persons, either exclusively or together with other persons;
 - (c) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of on sale or on lease;
 - (d) building houses to be disposed of on shared ownership leases ;
 - (e) encouraging and giving advice on the formation of other housing associations which would be eligible for registration by the Corporation;

- (f) providing services for, and giving advice on the running of, registered housing associations ;
- (g) effecting transactions falling within section 45(1) (acquisition and disposal of house at discount to tenant of charitable body).

5 Registration

- (1) The Housing Corporation may register any housing association which is eligible for registration but—
 - (a) the Corporation shall establish criteria which should be satisfied by a housing association seeking registration, and
 - (b) in deciding whether to register an association the Corporation shall have regard to whether it satisfies those criteria.
- (2) The Corporation may vary the criteria established by them under subsection (1).
- (3) As soon as may be after registering a housing association the Corporation shall give notice of the registration—
 - (a) if the association is a registered charity, to the Charity Commissioners, or
 - (b) if the association is a society registered under the 1965 Act, to the appropriate registrar,who shall record the registration.
- (4) For all purposes other than rectification of the register a body shall be conclusively presumed to be, or to have been, a housing association eligible for registration at any time when it is, or was, on the register.

6 Removal from the register

- (1) A body which has been registered shall not be removed from the register except in accordance with this section.
- (2) If it appears to the Housing Corporation that a body which is on the register—
 - (a) is no longer a housing association eligible for registration, or
 - (b) has ceased to exist or does not operate,the Corporation shall, after giving the body at least 14 days notice, remove it from the register.
- (3) In the case of a body which appears to the Corporation to have ceased to exist or not to operate, notice under subsection (2) shall be deemed to be given to the body if it is served at the address last known to the Corporation to be the principal place of business of the body.
- (4) A body which is registered may request the Corporation to remove it from the register if it has not at any time received—
 - (a) a housing association grant,
 - (b) a revenue deficit grant, or
 - (c) any such payment or loan as is mentioned in paragraph 2 or 3 of Schedule 1 (grant-aided land),and the Corporation may, if it thinks fit, do so.

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- (5) As soon as may be after removing a body from the register the Corporation shall give notice of the removal—
- (a) if the body is a registered charity, to the Charity Commissioners,
 - (b) if the body is a society registered under the 1965 Act, to the appropriate registrar,
- who shall record the removal.

7 Appeal against removal

- (1) A body which is aggrieved by a decision of the Housing Corporation to remove it from the register may appeal against the decision to the High Court or, as the case may be, to the Court of Session.
- (2) If an appeal is brought the Corporation shall not remove the body concerned from the register until the appeal has been finally determined or is withdrawn.
- (3) As soon as may be after an appeal is brought the Corporation shall give notice of the appeal—
 - (a) if the body concerned is a registered charity, to the Charity Commissioners, or
 - (b) if the body concerned is a society registered under the 1965 Act, to the appropriate registrar.

Disposal of land

8 Power of registered housing associations to dispose of land

- (1) Without prejudice to the provisions of Part V of the Housing Act 1985 (the right to buy), every registered housing association has power, subject to section 9 (control by Housing Corporation of land transactions), by virtue of this section but not otherwise, to dispose, in such manner as it thinks fit, of land held by it.
- (2) Section 39 of the Settled Land Act 1925 (disposal of land by trustees) does not apply to the disposal of land by a registered housing association; and accordingly the disposal need not be for the best consideration in money that can reasonably be obtained.
- (3) Nothing in subsection (2) shall be taken to authorise any action on the part of a charity which would conflict with the trusts of the charity.

9 Control by Housing Corporation of dispositions of land by housing associations

- (1) The consent of the Housing Corporation, by order under the seal of the Corporation, is required for—
 - (a) any disposition of land by a registered housing association, and
 - (b) a disposition of grant-aided land (as defined in Schedule 1) by an unregistered housing association,

except where the disposition is one excepted from this section by section 10.
- (2) The consent of the Corporation may be so given—
 - (a) generally to all housing associations or to a particular housing association or description of association ;
 - (b) in relation to particular land or in relation to a particular description of land;

and may be given subject to conditions.

- (3) A disposition by a housing association which requires the consent of the Corporation under this section is valid in favour of a person claiming under the association notwithstanding that the consent of the Corporation has not been given; and a person dealing with the association, or with a person claiming under the association, shall not be concerned to see or inquire whether any such consent has been given.

This subsection has effect subject to section 12 (avoidance of certain dispositions of houses without consent).

- (4) Where at the time of its removal from the register under section 6(2) (removal of bodies no longer eligible for registration or defunct) a body owns land, this section continues to apply to that land after the removal as if the body concerned continued to be a registered housing association.
- (5) For the purposes of this section " disposition " means sale, lease, mortgage, charge or any other disposal.

10 Dispositions excepted from s. 9

- (1) A disposition by an unregistered housing association which is a charity is not within section 9 if by virtue of section 29 of the Charities Act 1960 it cannot be made without an order of the court or the Charity Commissioners; but the Charity Commissioners shall consult the Housing Corporation before making an order in such a case.
- (2) A letting by a registered housing association, or by an unregistered housing association which is a housing trust, is not within section 9 if it is—
- (a) a letting of land under a secure tenancy, or
 - (b) a letting of land under what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 3 to the Housing Act 1985 or paragraphs 2 to 7 of Schedule 1 to the Tenants' Rights &c. (Scotland) Act 1980 (tenancies excepted from being secure tenancies for reasons other than that they are long leases).
- (3) The grant by an unregistered housing association which does not satisfy the landlord condition in section 80 of the Housing Act 1985 (bodies which are capable of granting secure tenancies) of a lease for a term ending within the period of seven years and three months beginning on the date of the grant is not within section 9 unless—
- (a) there is conferred on the lessee (by the lease or otherwise) an option for renewal for a term which, together with the original term, would expire outside that period, or
 - (b) the lease is granted wholly or partly in consideration of a fine.
- (4) In subsection (3) the expression " lease " includes an agreement for a lease and a licence to occupy, and the expressions " grant " and " term " shall be construed accordingly.

11 Further provisions as to certain disposals of houses

Schedule 2 applies in relation to a disposal of a house under section 8 where—

- (a) a discount is given to the purchaser, or
- (b) the house is situated in a National Park, an area designated under section 87 of the National Parks and Access to the Countryside Act 1949 as an area

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of outstanding beauty, or an area designated as a rural area by order under section 157 of the Housing Act 1985.

12 Avoidance of certain disposals of houses without consent

A disposal of a house by a housing association made without the consent required by section 9 is void unless—

- (a) the disposal is to an individual (or to two or more individuals), and
- (b) the disposal does not extend to any other house.

Control of payments to members, etc.

13 Payments by way of gift, dividend or bonus

(1) A registered housing association shall not make a gift or pay a sum by way of dividend or bonus to—

- (a) a person who is or has been a member of the association, or
- (b) a person who is a member of the family of a person within paragraph (a), or
- (c) a company of which a person within paragraph (a) or (b) is a director, or
- (d) a Scottish firm of which a person within paragraph (a) or (b) is a member,

except as permitted by this section.

(2) The following are permitted—

- (a) the payment of a sum which, in accordance with the rules of the association concerned, is paid as interest on capital lent to the association or subscribed by way of shares in the association ;
- (b) the payment by a fully mutual housing association to a person who has ceased to be a member of the association, of a sum which is due to him either under his tenancy agreement with the association or under the terms of the agreement under which he became a member of the association.

(3) Where an association which is a society registered under the 1965 Act pays a sum or makes a gift in contravention of this section the association may recover the sum or the value of the gift, and proceedings for its recovery shall be taken by the association if the Housing Corporation so directs.

14 Maximum amounts payable by way of fees, expenses, etc.

(1) The Housing Corporation may from time to time specify the maximum amounts which may be paid by a registered housing association which is a society registered under the 1965 Act—

- (a) by way of fees or other remuneration, or by way of expenses, to a member of the association who is not a member of its committee or an officer or employee of the association,
- (b) by way of expenses to a member of its committee (including a co-opted member) who is not an officer or employee of the association, or
- (c) by way of expenses to an officer of the association who does not have a contract of employment with the association;

and different amounts may be so specified for different purposes.

- (2) Where such an association makes a payment in excess of the specified maximum, the association may recover the excess and proceedings for its recovery shall be taken by the association if the Corporation so directs.

15 Payments and benefits to committee members, etc.

- (1) A registered housing association which is a society registered under the 1965 Act shall not make a payment or grant a benefit to—
- (a) a committee member (including a co-opted member), officer or employee of the association, or
 - (b) a person who at any time within the preceding twelve months has been a person within paragraph (a), or
 - (c) a close relative of a person within paragraph (a) or (b), or
 - (d) a business trading for profit of which a person falling within paragraph (a), (b) or (c) is a principal proprietor or in the management of which such a person is directly concerned,
- except as permitted by this section.
- (2) The following are permitted—
- (a) payments made or benefits granted to an officer or employee under his contract of employment with the association;
 - (b) the payment of expenses to a committee member (including a co-opted member) or to an officer of the association who does not have a contract of employment with the association;
 - (c) any such payment as may be made in accordance with section 13(2) (interest payable in accordance with the rules and certain sums payable by a fully mutual housing association to a person who has ceased to be a member);
 - (d) the grant or renewal of a tenancy by a co-operative housing association;
 - (e) where a tenancy of a house has been granted to, or to a close relative of, a person who later became a committee member (including a co-opted member), officer or employee, the grant to that tenant of a new tenancy, whether of the same or another house.
- (3) Where an association pays a sum or grants a benefit in contravention of this section, the association may recover the sum or the value of the benefit, and proceedings for its recovery shall be taken by the association if the Housing Corporation so directs.

Constitution, change of rules, amalgamation and dissolution

16 General power to remove committee member

- (1) The Housing Corporation may by order remove a committee member of a registered housing association if—
- (a) in England and Wales, he has been adjudged bankrupt or he has made an arrangement with his creditors,
 - (b) in Scotland, he has become not our bankrupt or he has executed a trust deed for behoof of, or has made a composition contract or arrangement with, his creditors,
 - (c) he is incapable of acting by reason of mental disorder,
 - (d) he has not acted, or

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- (e) he cannot be found or does not act and his absence or failure to act is impeding the proper management of the association's affairs.
- (2) Before making an order the Corporation shall give at least 14 days' notice of its intention to do so to the person whom it intends to remove, and to the association concerned.
- (3) Notice under subsection (2) may be given by post, and if so given to the person whom the Corporation intend to remove may be addressed to his last known address in the United Kingdom.
- (4) A person who is ordered to be removed under this section may appeal against the order to the High Court or, as the case may be, the Court of Session.

17 Power to appoint new committee member

- (1) The Housing Corporation may by order appoint a person to be a committee member of a registered housing association—
 - (a) in place of a person removed by the Corporation,
 - (b) where there are no members of the committee, or
 - (c) where the Corporation is of opinion that it is necessary for the proper management of the association's affairs to have an additional committee member.
- (2) A person may be so appointed whether or not he is a member of the association and, if he is not, notwithstanding that the rules of the association restrict appointment to members.
- (3) A person appointed under this section shall hold office for such period and on such terms as the Corporation may specify and on the expiry of the appointment the Corporation may renew the appointment for such period as it may specify; but this does not prevent a person appointed under this section from retiring in accordance with the rules of the association.
- (4) A person appointed under this section is entitled—
 - (a) to attend, speak and vote at any general meeting of the association and to receive all notices of and other communications relating to any general meeting which a member of the association is entitled to receive, and
 - (b) to require a general meeting of the association to be convened within 21 days of a request to that effect made in writing to the committee of the association.

18 Exercise of powers under ss. 16 and 17 in relation to registered charities

- (1) The Housing Corporation may exercise its powers under sections 16 and 17 (removal or appointment of committee member) in relation to an association which is a registered charity only if the association has, at any time before the powers are exercised, received a grant or loan under—
 - section 41 (housing association grants),
 - section 54 or 55 (revenue deficit grants or hostel deficit grants),
 - section 58(2) (grants or loans by local authorities),
 - section 79 (loans by Housing Corporation),
 - section 31 of the Housing Act 1974 (management grants), or

any enactment mentioned in paragraph 2 or 3 of Schedule 1 (pre-1974 grants and certain loans).

- (2) Sections 16 and 17 apply in relation to a trustee of such an association as they apply in relation to a committee member.
- (3) Before exercising its powers under section 17 (appointment of committee member or trustee) in relation to such an association the Corporation shall consult the Charity Commissioners ; and the Corporation may not under that section appoint a trustee in excess of the maximum number permissible under the association's constitution.

19 Change of rules under the 1965 Act

- (1) This section applies to a registered housing association—
 - (a) which is a society registered under the 1965 Act, and
 - (b) whose registration under this Part has been recorded by the appropriate registrar in accordance with section 5(3).
- (2) Notice shall be sent to the Housing Corporation of a change of the association's name or of the situation of its registered office.
- (3) Any other amendment of the association's rules is not valid without the Corporation's consent, given by order under the seal of the Corporation; and a copy of such consent shall be sent with the copies of the amendment required by section 10(1) of the 1965 Act to be sent to the appropriate registrar.
- (4) The 1965 Act applies in relation to the provisions of this section as if they were contained in section 10 of that Act (amendment of registered rules).

20 Change of objects by certain charities

- (1) This section applies to a registered housing association—
 - (a) which is a registered charity and is not a company incorporated under the Companies Act, and
 - (b) whose registration under this Part has been recorded by the Charity Commissioners in accordance with section 5(3).
- (2) No power contained in the provisions establishing the association as a charity, or regulating its purposes and administration, to vary or add to its objects may be exercised without the consent of the Charity Commissioners, and before giving their consent the Charity Commissioners shall consult the Housing Corporation.

21 Amalgamation and dissolution under the 1965 Act

- (1) This section applies to a registered housing association—
 - (a) which is a society registered under the 1965 Act, and
 - (b) whose registration under this Part has been recorded by the appropriate registrar in accordance with section 5(3).
- (2) The appropriate registrar shall not register a special resolution which is passed for the purposes of—
 - (a) section 50 of the 1965 Act (amalgamation of societies), or
 - (b) section 51 of that Act (transfer of engagements between societies),

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unless, together with the copy of the resolution, there is sent to him a copy of the Housing Corporation's consent to the amalgamation or transfer concerned.

- (3) Section 52 of the 1965 Act (power of society to convert itself into, amalgamate with or transfer its engagements to a company registered under the Companies Act) does not apply.
- (4) If the association resolves by special resolution that it be wound up voluntarily under the Companies Act, the resolution has no effect unless—
 - (a) before the resolution was passed the Corporation gave its consent to its passing, and
 - (b) a copy of the consent is forwarded to the appropriate registrar together with the copy of the resolution required to be so forwarded in accordance with the Companies Act.
- (5) If the association is to be dissolved by instrument of dissolution, the appropriate registrar shall not—
 - (a) register the instrument in accordance with section 58(5) of the 1965 Act, or
 - (b) cause notice of the dissolution to be advertised in accordance with section 58(6) of that Act,
 unless together with the instrument there is sent to him a copy of the Corporation's consent to its making.
- (6) The references in this section to the Corporation's consent are to an order under the seal of the Corporation giving its consent.

22 Housing Corporation's power to petition for winding up

- (1) The Housing Corporation may present a petition for the winding up under the Companies Act of a registered housing association to which this section applies on the ground that the association is failing properly to carry out its purposes or objects.
- (2) This section applies to a registered housing association which is—
 - (a) a company incorporated under the Companies Act, or
 - (b) a society registered under the 1965 Act (to which the winding up provisions of the Companies Act apply in accordance with section 55(a) of the 1965 Act).

23 Transfer of net assets on dissolution

- (1) Where a registered housing association which is a society registered under the 1965 Act is dissolved under that Act, so much of the property of the association as remains after meeting the claims of its creditors and any other liabilities arising on or before the dissolution shall be transferred—
 - (a) to the Housing Corporation, or
 - (b) if the Corporation so directs, to such registered housing association as may be specified in the direction,
 notwithstanding anything in the 1965 Act or in the rules of the association.
- (2) In order to avoid the necessity for the sale of land belonging to the association, and thereby secure the transfer of the land under this section, the Corporation may, if it appears to it appropriate to do so, make payments to discharge such claims or liabilities as are referred to in subsection (1).

- (3) Where the association which is dissolved is a charity, the Corporation may dispose of property transferred to it by virtue of this section only to another registered housing association—
 - (a) which is also a charity, and
 - (b) the objects of which appear to the Corporation to be, as nearly as practicable, akin to those of the dissolved association.
- (4) In any other case the Corporation may dispose of property transferred to it by virtue of this section to a registered housing association or to a subsidiary of the Corporation.
- (5) Where property transferred to the Corporation by virtue of this section includes land subject to an existing mortgage or charge (whether in favour of the Corporation or not), the Corporation may, in exercise of its powers under Part III dispose of the land either—
 - (a) subject to that mortgage or charge, or
 - (b) subject to a new mortgage or charge in favour of the Corporation securing such amount as appears to the Corporation to be appropriate in the circumstances.

Accounts and audit

24 General requirements as to accounts and audit

- (1) The Secretary of State may by order lay down accounting requirements for registered housing associations with a view to ensuring that the accounts of every registered housing association—
 - (a) are prepared in the requisite form, and
 - (b) give a true and fair view of the state of affairs of the association, so far as its housing activities are concerned, and of the disposition of funds and assets which are, or at any time have been, in its hands in connection with those activities.
- (2) The method by which an association shall distinguish in its accounts between its housing activities and other activities shall be laid down by orders under subsection (1).
- (3) The accounts of every registered housing association shall comply with the requirements laid down under this section ; and the auditor's report shall state, in addition to any other matters which it is required to state, whether in the auditor's opinion the accounts do so comply.
- (4) Every registered housing association shall furnish to the Housing Corporation a copy of its accounts and auditor's report within six months of the end of the period to which they relate.
- (5) An order under this section—
 - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;and the provisions of such an order shall not apply in relation to a period beginning before the day on which the order comes into force.

25 Appointment of auditors by associations registered under the 1965 Act

Section 4(1) of the Friendly and Industrial and Provident Societies Act 1968 (obligation to appoint qualified auditors to audit accounts and balance sheet for each year of account) applies to every registered housing association which is a society registered under the 1965 Act, without regard to the volume of its receipts and payments, the number of its members or the value of its assets.

26 Accounting requirements for registered housing associations not within the 1965 Act

- (1) A registered housing association which is a registered charity shall, in respect of its housing activities (and separately from its other activities, if any) be subject to the provisions of Schedule 3 (which impose accounting and audit requirements corresponding to those imposed by the Friendly and Industrial and Provident Societies Act 1968).
- (2) But this does not affect any obligation of the charity under section 8 of the Charities Act 1960 (statement of accounts to be transmitted to Charity Commissioners).

27 Responsibility for securing compliance with accounting requirements

- (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 housing association, and
 - (b) is in that capacity responsible for the preparation and audit of accounts,
 shall ensure that section 24 (general requirements as to accounts and audit) and, where applicable, Schedule 3 (accounting requirements for associations not within 1965 Act) are complied with by the association.
- (2) If—
 - (a) section 24(4) (furnishing of accounts and auditor's report) is not complied with, or
 - (b) the accounts furnished to the Housing Corporation under that provision do not comply with the accounting requirements laid down under section 24(1), or
 - (c) Schedule 3, where applicable, is not complied with,
 every responsible person, and the association itself, commits a summary offence and is liable on conviction to a fine not exceeding level 3 on the standard scale.
- (3) 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 duty imposed by subsection (1);
 - (b) for an association to prove that every responsible person did everything that could reasonably have been expected of him by way of discharging the duty imposed by subsection (1) in relation to the association.
- (4) Proceedings for an offence under this section may in England and Wales be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.

Inquiries into affairs of housing associations

28 Inquiry

- (1) The Housing Corporation may appoint a person (not a person who is, or at any time has been, a member of the Corporation's staff) to conduct an inquiry into the affairs of a registered housing association.
- (2) The appointed person may by notice in writing served on—
 - (a) the association concerned, or
 - (b) any person who is, or has been, an officer, agent or member of the association, require the association or person to produce to him such books, accounts and other documents relating to the association's business and to give him such other information so relating, as he considers necessary for the purposes of the inquiry.
- (3) An association or other person who fails without reasonable excuse to comply with the requirements of a notice under subsection (2) commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.
- (4) On completion of the inquiry the appointed person shall make a report to the Corporation on such matters and in such form as the Corporation may specify.
- (5) In this section "agent" includes banker, solicitor and auditor; but nothing in this section requires the disclosure—
 - (a) by a solicitor, of a privileged communication made to him in his capacity as solicitor, or
 - (b) by a housing association's banker, of information as to the affairs of any of their other customers.

29 Extraordinary audit for purposes of inquiry

- (1) For the purposes of an inquiry under section 28 the Housing Corporation may require the accounts and balance sheet of the association concerned, or such of them as the Corporation may specify, to be audited by a qualified auditor appointed by the Corporation.
- (2) A person is a qualified auditor for this purpose if he is under section 7(1) of the Friendly and Industrial and Provident Societies Act 1968 a qualified auditor for the purposes of that Act, or is under section 7(2) of that Act a qualified auditor in relation to the association concerned.
- (3) On completion of the audit the appointed auditor shall make a report to the Corporation on such matters and in such form as the Corporation may specify.
- (4) The expenses of the audit, including the remuneration of the auditor, shall be paid by the Corporation.
- (5) An audit under this section is additional to, and does not affect, any audit made or to be made under any other enactment.

30 General powers exercisable as a result of inquiry or audit

- (1) Where the Housing Corporation is satisfied, as the result of an inquiry under section 28 or an audit under section 29, that there has been misconduct or mismanagement in the affairs of a registered housing association, it may—
 - (a) by order remove any member of the committee of the association, or any officer, agent or employee of the association, who has been responsible for or privy to the misconduct or mismanagement or has by his conduct contributed to it or facilitated it;
 - (b) by order suspend such a person for up to six months, pending determination whether he should be removed;
 - (c) order any bank or other person who holds money or securities on behalf of the association not to part with the money or securities without the approval of the Corporation;
 - (d) by order restrict the transactions which may be entered into, or the nature or amount of the payments which may be made, in the administration of the association without the approval of the Corporation.
- (2) Before making an order under subsection (1)(a) the Corporation shall give at least 14 days' notice of its intention to do so—
 - (a) to the person it intends to remove, and
 - (b) to the association concerned.
- (3) Notice under subsection (2) may be given by post, and if so given to the person whom the Corporation intends to remove may be addressed to his last known address in the United Kingdom.
- (4) A person who is ordered to be removed under subsection (1)(d) or suspended under subsection (1)(b) may appeal against the order to the High Court or, as the case may be, the Court of Session.
- (5) Where a person is suspended under subsection (1)(b), the Corporation may give directions with respect to the performance of his functions and otherwise as to matters arising from the suspension.
- (6) A person who contravenes an order under subsection (1)(c) commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months or both ; but proceedings for such an offence may be brought in England and Wales only by or with the consent of the Corporation or the Director of Public Prosecutions.

31 Exercise of powers under ss. 28 to 30 in relation to registered charities

- (1) The Housing Corporation may exercise its powers under sections 28 to 30 (inquiry, audit, &c.) in relation to an association which is a registered charity only if the association has, at any time before the powers are exercised, received a grant or loan under—
 - section 41 (housing association grants),
 - section 54 or 55 (revenue deficit grants or hostel deficit grants),
 - section 58(2) (grants or loans by local authorities),
 - section 79 (loans by Housing Corporation),
 - section 31 of the Housing Act 1974 (management grants), or

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any enactments mentioned in paragraph 2 or 3 of Schedule 1 (pre-1974 grants and certain loans).

- (2) In relation to such an association sections 28 to 30 have effect with the following adaptations—
- (a) references to an officer, agent or member, or to a member of the committee, include a trustee of the association;
 - (b) references to the association's business are confined to its housing activities;
 - (c) references to the association's accounts do not include revenue accounts which do not relate to its housing activities, except so far as such accounts are necessary for the auditing of revenue accounts which do so relate or of the association's balance sheet;
 - (d) a person is a qualified auditor for the purposes of section 29 (extraordinary audit) only if he is an auditor qualified for the purposes of paragraph 3 of Schedule 3.
- (3) In relation to such an association the powers conferred on the Corporation by—
section 28(1) (appointment of person to inquire into association's affairs), and
section 30(1)(a) and (b) (removal of person in connection with misconduct or mismanagement and suspension with a view to removal),
are exercisable only after consultation with the Charity Commissioners.

32 Power to direct transfer of land to another housing association or the Housing Corporation

- (1) Where, as the result of an inquiry under section 28 or an audit under section 29. the Housing Corporation is satisfied as regards a registered housing association which is a society registered under the 1965 Act—
- (a) that there has been misconduct or mismanagement in the administration of the association, or
 - (b) that the management of the land belonging to the association would be improved if the land belonging to the association were transferred in accordance with the provisions of this section,
- the Corporation may, with the consent of the Secretary of State, direct the association to make such a transfer.
- (2) Where the association concerned is a charity, the Housing Corporation may only direct a transfer to be made to another registered housing association—
- (a) which is also a charity, and
 - (b) the objects of which appear to the Corporation to be, as nearly as practicable, akin to those of the association concerned.
- (3) In any other case the Corporation may direct a transfer to be made to the Corporation or to another registered housing association.
- (4) A transfer in pursuance of a direction under this section shall be made on the terms that the transferee will pay or undertake to pay to the association concerned such sum (if any) as will be necessary to defray all its proper debts and liabilities (including debts and liabilities secured on the land) after taking into account any money or other assets belonging to the association.

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- (5) If it appears to the Corporation likely that the association concerned will as a result of the transfer be dissolved under the 1965 Act, the Corporation shall secure that the costs of the dissolution are taken into account in determining the sum payable to the association under subsection (4).

Miscellaneous

33 Recognition of central association

- (1) The Secretary of State may, if he thinks fit, recognise for the purposes of this section a central association or other body established for the purposes of promoting the formation and extension of housing associations and of giving them advice and assistance.
- (2) The Secretary of State may make a grant in aid of the expenses of the association or body of such amount as he may, with the approval of the Treasury, determine.

34 Provision of land by county councils

- (1) Where a housing association wishes to erect houses which in the opinion of the Secretary of State are required and the local housing authority in whose district the houses are proposed to be built are unwilling to acquire land with a view to selling or leasing it to the association, the county council, on the application of the association, may acquire land for that purpose.
- (2) For that purpose the county council may exercise all the powers of a local housing authority under Part II of the Housing Act 1985 (provision of housing) in regard to the acquisition and disposal of land ; and the provisions of that Act as to the acquisition of land by local housing authorities for the purposes of that Part apply accordingly.

35 Housing trusts: power to transfer housing to local housing authority

- (1) A housing trust may—
- (a) sell or lease to the local housing authority the houses provided by the trust, or
 - (b) make over to the authority the management of the houses.
- (2) So far as subsection (1) confers power to dispose of land—
- (a) it does not apply to registered housing associations (on whom power to dispose of land is conferred by section 8);
 - (b) it has effect subject to section 9 (dispositions requiring consent of Housing Corporation) where the housing trust is an unregistered housing association and the land is grant-aided land (as defined in Schedule 1); and
 - (c) it has effect subject to section 29 of the Charities Act 1960 (dispositions which cannot be made without an order of the court or the Charity Commissioners) where the housing trust is a charity.

36 Housing trusts: functions of Secretary of State with respect to legal proceedings

- (1) If it appears to the Secretary of State—
- (a) that the institution of legal proceedings is requisite or desirable with respect to any property belonging to a housing trust, or

- (b) that the expediting of any such legal proceedings is requisite or desirable, he may certify the case to the Attorney-General who may institute legal proceedings or intervene in legal proceedings already instituted in such manner as he thinks proper in the circumstances.
- (2) Before preparing a scheme with reference to property belonging to a housing trust, the court or body which is responsible for making the scheme shall communicate with the Secretary of State and consider any recommendations made by him with reference to the proposed scheme.

Supplementary

37 Definitions relating to the 1965 Act and societies registered under it

In this Part " the 1965 Act" means the Industrial and Provident Societies Act 1965, and in relation to a society registered under that Act—

" appropriate registrar " has the same meaning as in that Act (where it is defined in section 73(1)(c) by reference to the situation of the society's registered office);

" committee " means the committee of management or other directing body of the society;

" co-opted member ", in relation to the committee, includes any person co-opted to serve on the committee, whether he is a member of the society or not;

" dissolved under the 1965 Act" means dissolved either as mentioned in section 55(a) of that Act (winding up under the Companies Act) or as mentioned in section 55(6) of that Act (instrument of dissolution).

38 Definitions relating to charities

In this Part—

(a) " charity " has the same meaning as in the Charities Act 1960; and

(b) " registered charity " means a charity which is registered under section 4 of that Act and is not an exempt charity

39 Minor definitions

In this Part—

" mental disorder " has the same meaning as in the Mental Health Act 1983 or the Mental Health (Scotland) Act 1984;

" secure tenancy " has the same meaning as in section 79 of the Housing Act 1985 or section 10 of the Tenants' Rights &c. (Scotland) Act 1980 ;

" standard scale " has the meaning given by section 75 of the Criminal Justice Act 1982.

40 Index of defined expressions: Part I

The following Table shows provisions defining or explaining expressions used in this Part (other than provisions defining or explaining an expression used only in the same section or paragraph):—

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

appropriate registrar (in relation to a society registered under the 1965 Act)	section 37
bank	section 106
charge (in relation to Scotland)	section 106
charity	section 38(a)
committee (in relation to a society registered under the 1965 Act)	section 37
compulsory disposal (in Schedule 2)	paragraph 6 of that Schedule
co-operative housing association	section 1(2)
co-opted member (in relation to the committee of a society registered under the 1965 Act)	section 37
the Companies Act	section 106
dissolved under the 1965 Act (in relation to a society registered under that Act)	section 37
district (of a local housing authority)	section 104(2)
dwelling	section 106
eligible for registration (in relation to a housing association)	section 4
exempted disposal (in Schedule 2)	paragraph 5 of that Schedule
friendly society	section 106
fully mutual (in relation to a housing association)	section 1(2)
hostel	section 106
house	section 106
housing activities	section 106
housing association	section 1(1)
housing association grant	section 41
housing trust	section 2
insurance company	section 106
local housing authority	section 104
member of family	section 105
mental disorder	section 39
mortgage (in relation to Scotland)	section 106
the 1965 Act	section 37

register, registered, registration and unregistered (in relation to a housing association)	section 3(2)
registered charity	section 38(6)
relevant disposal (in schedule 2)	paragraph 4 or that Schedule
revenue deficit grant	section 54
secure tenancy	section 39
shared ownership lease	section 106
standard scale	section 39
trustee savings bank	section 106

PART II

HOUSING ASSOCIATION FINANCE

Housing association grants

41 Housing association grants

- (1) The Secretary of State may make grants (" housing association grants ") to registered housing associations in respect of their expenditure in connection with housing projects which are approved by him or fall within an approved development programme.
- (2) An approved development programme is a programme for the development of housing by registered housing associations prepared by the Housing Corporation or a local authority and for the time being approved by the Secretary of State for the purposes of this section.

42 Projects qualifying for grant: accommodation for letting, hostels

- (1) A project is a housing project for the purposes of housing association grant if it is undertaken for the purpose of—
 - (a) providing dwellings for letting,
 - (b) providing a building for use as a hostel,
 - (c) improving or repairing such accommodation, or
 - (d) providing land or buildings which, in the opinion of the Secretary of State, will be for the benefit of persons for whom such accommodation is provided, or improving or repairing such buildings.
- (2) In subsection (1)—
 - (a) " letting " in paragraph (a) includes the grant of a shared ownership lease, and
 - (b) in paragraph (b) " building " includes part of a building and " hostel " includes part of a hostel.
- (3) References in this section to letting or the grant of a lease include the grant of a licence to occupy.

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

43 Projects qualifying for grant: improvement for sale

A project where a registered housing association, after carrying out works of repair, improvement or conversion—

- (a) disposes of a house as one dwelling,
- (b) divides a house into two or more separate dwellings and disposes of them, or
- (c) combines two houses to form one dwelling and disposes of it,

is a housing project for the purposes of housing association grant.

44 Projects qualifying for grant: repair or improvement after exercise of right to buy etc.

- (1) A project where a registered housing association carries out works of repair or improvement to a dwelling-house, or to the building in which a dwelling-house is situated, after the tenant has exercised, or claimed to exercise, the right to buy or the right to a shared ownership lease under Part V of the Housing Act 1985 is a housing project for the purposes of housing association grant.
- (2) Where in such a case a housing association grant is made after the tenant has exercised the right to buy or the right to be granted a shared ownership lease, the Secretary of State may reduce the amount of the grant.
- (3) In this section " dwelling-house " has the same meaning as in Part V of the Housing Act 1985.

45 Projects qualifying for grant: disposal to tenant of charitable housing association etc.

- (1) A project where a registered housing association first acquires a house and then disposes of it at a discount to a tenant to whom this section applies is a housing project for the purposes of housing association grant.
- (2) This section applies to a tenant of a publicly-funded dwelling who, but for paragraph 1 of Schedule 5 to the Housing Act 1985 (exceptions to the right to buy: landlord a charitable housing trust or housing association) would have the right to buy.
- (3) A dwelling is publicly-funded for this purpose if housing association grant has been paid in respect of a project which included—
 - (a) the acquisition of the dwelling,
 - (b) the acquisition of a building and the provision of the dwelling by means of the conversion of the building, or
 - (c) the acquisition of land and the construction of the dwelling on the land.
- (4) Where a registered housing association contracts for the acquisition of a house and, without taking the conveyance, grant or assignment, disposes of its interest to a tenant to whom this section applies, subsection (1) and the following provisions have effect as if the association first acquired the house and then disposed of it to the tenant—
 - section 8 (disposal of land by registered housing associations),
 - section 9 (consent of Housing Corporation to disposals),
 - Schedule 2 (covenants for repayment of discount on early disposal and restricting disposal of houses in National Parks, &c),
 - section 79(2) (power of Housing Corporation to lend to person acquiring interest from registered housing association), and

section 130 of the Housing Act 1985 (reduction of discount on exercise of right to buy where previous discount given).

46 Applications for housing association grant

- (1) A housing association grant is not payable in respect of a project unless an application for it is submitted to the appropriate body.
- (2) The appropriate body in England and Wales is—
 - (a) where the housing association concerned makes an application to a local authority for a loan under section 58(2) in connection with the project, that authority, and
 - (b) in any other case, the Housing Corporation.
- (3) The appropriate body in Scotland is a local authority, the Housing Corporation or the Secretary of State.
- (4) Where a local authority or the Housing Corporation receive an application under this section, they shall forward it to the Secretary of State together with their own assessment of the project.

47 Amount of housing association grant: net cost

- (1) The housing association grant payable in respect of a project is equal to the net cost of the project to the association, determined in accordance with the following provisions, but subject to section 48 (maximum levels of cost and grant).
- (2) The net cost of a project to the association is the difference between—
 - (a) the estimated expenditure of the association which is, in the opinion of the Secretary of State, attributable to the project and is reasonable and appropriate having regard to all the circumstances, and
 - (b) the estimated income which, in the opinion of the Secretary of State, the association might reasonably be expected to receive in respect of the project, including sums received or to be received by way of grant 01 subsidy, other than sums received or to be received by way of housing association grant.
- (3) Estimated expenditure and estimated income for this purpose shall be calculated in such manner as the Secretary of State may, with the consent of the Treasury, from time to time determine, and the calculation may take account of expenditure and income likely to be incurred or received in connection with the premises to which the project relates after the completion of the project.
- (4) Before making a general determination under subsection (3) the Secretary of State shall consult such bodies appearing to him to be representative of housing associations as he considers appropriate.
- (5) In determining the net cost of a project the Secretary of State may adopt the assessment of the body forwarding the grant application to him under section 46.
- (6) If in the case of an application for a housing association grant in respect of a particular project it appears to the Secretary of State appropriate to do so, he may determine the net cost in such manner as he considers appropriate instead of in accordance with the preceding provisions.

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48 Amount of housing association grant: maximum levels of cost and grant

- (1) The Secretary of State may, with the consent of the Treasury, determine maximum levels of cost or of housing association grant applicable to—
 - (a) housing projects generally,
 - (b) any description of housing project, or
 - (c) a particular housing project,and the amount of grant payable shall be limited in accordance with any such determination.
- (2) Before making a general determination under subsection (1) the Secretary of State shall consult such bodies appearing to him to be representative of housing associations as he considers appropriate.
- (3) The maximum grant which may be paid for any one dwelling in a case of the kind mentioned in section 43 (where dwelling disposed of after conversion, &c.) is—
 - (a) in respect of a dwelling in Greater London or the City of Glasgow district, £12,500,
 - (b) in respect of a dwelling elsewhere, £9,500,or such other sum as the Secretary of State may prescribe by order made with the consent of the Treasury.
- (4) An order—
 - (a) may make different provision for different cases or descriptions of case, including different provision for different areas;
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

49 Payment of housing association grants

- (1) A housing association grant in respect of a project is payable either in a single sum or in annual instalments, as the Secretary of State may determine.
- (2) A grant payable in a single sum is payable when in the opinion of the Secretary of State the project is completed or its completion has become impossible.
- (3) A grant payable in annual instalments is payable in instalments—
 - (a) beginning in the financial year in which, in the opinion of the Secretary of State, the project is completed or its completion has become impossible, and
 - (b) continuing over such number of years as he may determine, either generally or in relation to the particular project.
- (4) The Secretary of State may, if he considers it appropriate to do so, make payments on account of the grant at a time earlier than indicated by subsection (2) or (3).
- (5) The Secretary of State may, on such terms as he may with the approval of the Treasury specify, appoint the Housing Corporation or a local housing authority to act as his agent in connection with the making, in such cases as he may specify, of payments in respect of housing association grant; and, where such an appointment is made, the Corporation or authority shall act as such an agent in accordance with the terms of their appointment
- (6) No sum shall be paid in respect of a housing association grant to a body which has been removed from the register of housing associations under section 6.

50 Grant conditions

- (1) The Secretary of State may provide—
- (a) where the project is approved by him for the purposes of housing association grant, in giving his approval, or
 - (b) where the project falls within an approved development programme (and thus does not require separate approval), before first making a payment of grant in respect of the project,
- that the payment of a housing association grant is conditional on compliance by the housing association concerned with such conditions as he may specify.
- (2) The conditions may include, in a case where the project has not yet been completed, conditions as to the period within which it is to be completed.

51 Payment of grant to another association on transfer of property

- (1) The Secretary of State may, where at any time—
- (a) a housing association grant is payable in respect of a project, and
 - (b) a dwelling or hostel to which the project relates, or part of such a dwelling or hostel, becomes vested in, or is leased for a term exceeding seven years to, a registered housing association other than the association by whom the grant application was made, or trustees for such an association,
- pay to that other association the whole or part of the housing association grant, or any instalment of it, which would otherwise have been paid after that time to the association by whom the grant application was made.
- (2) For the purposes of subsection (1) a lease shall be treated as being for a term exceeding seven years where the original term is for a lesser period but the lease confers on the lessee an option for renewal for a term which, together with the original term, exceeds seven years.

52 Circumstances in which grant may be reduced, suspended or reclaimed

- (1) This section applies where a housing association grant has been made to an association and—
- (a) a condition imposed under section 50 is not complied with, or
 - (b) the Secretary of State is satisfied that land to which the grant relates has ceased to be used, or to be available for use, for the purpose for which, at the time the project concerned was approved, it was intended that it should be used, or
 - (c) land to which the grant relates is disposed of (in any manner) by the association, or
 - (d) there is paid to the association, in respect of land to which the grant relates, an amount payable in pursuance of the covenant required by paragraph 1 of Schedule 2 to this Act or section 155 of the Housing Act 1985 (repayment of discount on early disposal) or any other covenant or provision to the like effect, or
 - (e) there is paid to the association, in respect of land to which the grant relates, an amount payable in pursuance of the provision required by paragraph 1 or 6 of Schedule 8 to the Housing Act 1985 (terms of shared ownership lease: acquisition of additional shares or payment for outstanding share on disposal) or any other provision to the like effect.

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- (2) Where this section applies, the Secretary of State may—
- (a) reduce the amount of, or of any payment in respect of, the grant,
 - (b) suspend or discontinue any instalment of the grant, or
 - (c) if a payment has been made to the association in respect of the grant, direct the association to pay to him an amount equal to the whole, or such proportion as he may determine, of the amount paid to the association.
- (3) Where, after a housing association grant has been made to an association, there is—
- (a) such a disposal as is mentioned in subsection (1)(c), or
 - (b) such a payment as is mentioned in subsection (1)(d) or (e),
- the association shall notify the Secretary of State, and if so required by written notice of the Secretary of State, shall furnish him with such particulars of and information relating to the disposal or payment as are specified in the notice.
- (4) Where a housing association grant has been made to an association, the Chief Land Registrar may furnish the Secretary of State with such particulars and information as he may reasonably require for the purpose of determining—
- (a) whether there has been such a disposal as is mentioned in subsection (1)(c), or
 - (b) whether there has been made such a payment as is mentioned in subsection (1)(d) or (e).

53 Recoupment of surplus rental income

- (1) A registered housing association which has at anytime received a housing association grant shall show separately in its accounts for any period the surpluses arising from increased rental income during that period from housing projects in connection with which the grant was made.
- (2) The surpluses shall be shown by each association in a fund to be known as the Grant Redemption Fund ; and the method of constituting the Fund and of showing it in the association's accounts shall be as required by order of the Secretary of State under section 24 (general requirements as to accounts).
- (3) The surpluses in respect of a period shall be calculated in such manner as the Secretary of State may determine for housing associations generally.
- (4) In making that determination the Secretary of State may take account of—
- (a) the rental income received or capable of being received by an association, and
 - (b) the management and maintenance costs and loan charges incurred or likely to be incurred by it;
- and surpluses may be calculated differently for housing associations of different kinds or dwellings in different parts of Great Britain.
- (5) The manner of calculating surpluses shall be determined after consultation with organisations appearing to the Secretary of State to be representative of registered housing associations, and shall be made known to the associations.
- (6) The Secretary of State may from time to time give notice to a registered housing association requiring it to pay to him, with interest if demanded, or to apply or appropriate for purposes he specifies, any sums standing in its Grant Redemption Fund at the end of a period of account.
- (7) Interest demanded by such a notice is payable—

- (a) at the rate or rates previously determined by the Secretary of State, with the consent of the Treasury, for housing associations generally and published by him, or, if no such determination has been made, at the rate or rates specified with the consent of the Treasury in the notice ;
- (b) either from the date of the notice or from such earlier date, not earlier than the end of the period of account, as may be specified in the notice.

Deficit grants

54 Revenue deficit grants

- (1) The Secretary of State may pay a grant (a " revenue: deficit grant") to a registered housing association which incurs a deficit on its revenue account for any period.
- (2) An association incurs such a deficit if its relevant expenditure exceeds its relevant income.
- (3) For this purpose—
 - (a) its relevant expenditure is its expenditure for the period which, in the opinion of the Secretary of State, is attributable to its housing activities and is reasonable and appropriate having regard to all the circumstances, and
 - (b) its relevant income is the income which, in the opinion of the Secretary of State, it might reasonably be expected to receive for the period in respect of its housing activities, including sums by way of grant or subsidy,and income and expenditure shall be calculated in such manner as the Secretary of State may, with the consent of the Treasury, determine.
- (4) The revenue deficit grant payable to an association in respect of a period shall be of such amount as the Secretary of State may determine in relation to that association, but shall not be greater than the amount of the excess determined under subsection (3).
- (5) For the purposes of this section the housing activities of an association do not include activities relating to hostels.

55 Hostel deficit grants

- (1) The Secretary of State may pay a grant (a " hostel deficit grant") to a registered housing association which, in relation to a hostel managed by it, incurs a revenue deficit in respect of any period.
- (2) An association incurs such a deficit if its relevant expenditure exceeds its relevant income.
- (3) For this purpose—
 - (a) its relevant expenditure is its expenditure for the period which, in the opinion of the Secretary of State, is attributable to the hostel and is reasonable and appropriate having regard to all the circumstances, and
 - (b) its relevant income is the income which, in the opinion of the Secretary of State, it might reasonably be expected to receive in respect of the hostel for that period, including sums received or to be received in respect of that period by way of grant or subsidy,

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and income and expenditure shall be calculated in such manner as the Secretary of State may, with the consent of the Treasury, determine.

- (4) The reference in subsection (3) (b) to the income which an association might reasonably be expected to receive in respect of a hostel in a period includes so much as is reasonably attributable to the hostel of sums received or to be received by the association in respect of that period otherwise than by reference to a specific hostel or purpose.
- (5) Where an association which applies for a hostel deficit grant manages more than one hostel, the Secretary of State may, if he considers it appropriate to do so, treat all the hostels managed by the association, or any two or more of them, as a single hostel for the purpose of determining whether the association has incurred a revenue deficit.
- (6) The hostel deficit grant payable to an association in respect of a period shall be such amount as the Secretary of State may determine in relation to that association, but shall not be greater than the amount of the excess determined under subsection (3).

56 Applications for deficit grants

- (1) A revenue deficit grant or hostel deficit grant is payable to an association in respect of a period only if an application complying with this section is made by the association to the Secretary of State and is approved by him.
- (2) An application for either description of grant—
 - (a) shall be made within 15 months after the end of the period to which it relates, and
 - (b) shall be in such form and contain such information as the Secretary of State may determine.
- (3) An application for a revenue deficit grant shall be accompanied by the audited accounts of the association for the period to which the application relates.

57 Payment of deficit grants

- (1) A revenue deficit grant shall be paid in a single sum in respect of the period to which it relates.
- (2) A hostel deficit grant shall be paid either in a single sum or in instalments, as the Secretary of State may determine; and if payable by instalments shall be paid at such times and in such manner as the Treasury may direct.
- (3) The Secretary of State may, if he considers it appropriate to do so, make payments on account of a revenue deficit grant or hostel deficit grant which he considers is likely to become payable to an association for any period.
- (4) No sum shall be paid in respect of a revenue deficit grant or hostel deficit grant to a body which has been removed under section 6 from the register of housing associations.

Arrangements with local authorities

58 Powers of local authorities to promote and assist housing associations: England and Wales

- (1) A local authority may promote the formation or extension of or, subject to the provisions of this Act, assist a housing association.
- (2) A local authority may, subject to section 60 (assistance restricted to registered housing associations), for the assistance of a housing association—
 - (a) make grants or loans to the association,
 - (b) subscribe for share or loan capital of the association, or
 - (c) guarantee or join in guaranteeing the payment of the principal of, and interest on, money borrowed by the association (including money borrowed by the issue of loan capital) or of interest on share capital issued by the association, on such terms and conditions as to rate of interest and repayment or otherwise and on such security as the local authority think fit.
- (3) A term of an agreement for such a grant or loan is void if it purports—
 - (a) to limit the aggregate amount of rents payable in respect of dwellings to which the agreement relates or contributions towards the cost of maintaining such dwellings, or
 - (b) to specify a limit which the rent of a dwelling is not to exceed.

59 Powers of local authorities to promote and assist housing associations: Scotland

- (1) A local authority or regional council may promote the formation or extension of or, subject to section 60 (assistance restricted to registered housing associations), assist a housing association whose objects include the erection, improvement or management of housing accommodation.
- (2) A local authority or regional council may, with the consent of and subject to any regulations or conditions made or imposed by the Secretary of State, for the assistance of such an association—
 - (a) make grants or loans to the association,
 - (b) subscribe for share or loan capital of the association, or
 - (c) guarantee or join in guaranteeing the payment of the principal of, and interest on, money borrowed by the association (including money borrowed by the issue of loan capital) or of interest on share capital issued by the association, on such terms and conditions as to rate of interest and repayment or otherwise and on such security as the local authority or regional council think fit.
- (3) A term of an agreement for such a grant or loan is void if it purports to relate to the rent payable in respect of a house to which the agreement relates or the contributions payable towards the cost of maintaining such a house.
- (4) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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

60 Certain assistance restricted to registered housing associations

- (1) Subject to the following provisions of this section, grants, loans and guarantees may be made or given under sections 58(2)(a) and (c) and 59(2)(a) and (c) only if the association is at the time the grant or loan is made, or the guarantee is given, a registered housing association.
- (2) Subsection (1) does not apply in relation to the making of a loan to an unregistered self-build society for the purpose of enabling it to meet the whole or part of the expenditure incurred, or to be incurred, by it in carrying out its objects.
- (3) Nothing in subsection (1) prevents the making of a loan to an unregistered association for the assistance of the association—
 - (a) in connection with works required to be carried out in pursuance of, or the acquisition of an estate or interest in a dwelling or other building for the purposes of, arrangements under section 121 of the Housing Act 1957 or section 155 of the Housing (Scotland) Act 1966 (arrangements with local authorities for the improvement of housing) which were approved by the Secretary of State before 1st April 1975 ;
 - (b) in connection with dwellings which were relevant dwellings for the purposes of section 73 of the Housing Finance Act 1972 (certain dwellings approved for purposes of subsidy before 10th August 1972);
 - (c) in connection with the provision of works which are relevant works, approved for subsidy, within the meaning of section 53 of the Housing (Financial Provisions) (Scotland) Act 1972;
 - (d) in connection with a building scheme within the meaning of section 75 of the Housing Finance Act 1972 (new building subsidy) which was approved by the Secretary of State for the purposes of that section before 1st April 1975 ;
 - (e) in connection with a building scheme or improvement scheme, within the meaning of sections 55 and 57 of the Housing (Financial Provisions) (Scotland) Act 1972 which was approved by the Secretary of State for the purposes of those sections before 1st April 1975.

61 Power of local housing authority to supply furniture to housing association tenants

- (1) A local housing authority may sell, or supply under a hire-purchase agreement, furniture to the occupants of houses provided by a housing association under arrangements made with the authority, and may buy furniture for the purpose.
- (2) In this section " hire-purchase agreement" means a hire-purchase agreement or conditional sale agreement within the meaning of the Consumer Credit Act 1974.

Grants for affording tax relief

62 Grants for affording tax relief

- (1) If a housing association makes a claim to the Secretary of State in respect of a period and satisfies him that throughout the period it was a housing association to which this section applies and its functions either—

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- (a) consisted exclusively of the function of providing or maintaining housing accommodation for letting or hostels and activities incidental to that function, or
 - (b) included that function and activities incidental to that function,
- the Secretary of State may make grants to the association for affording relief from tax chargeable on the association.
- (2) This section applies to a housing association if—
 - (a) it does not trade for profit, and
 - (b) it is or was registered throughout the period in respect of which the claim is made,and it is not for the time being approved for the purposes of section 341 of the Income and Corporation Taxes Act 1970 (tax treatment of co-operative housing associations).
 - (3) References in this section to tax chargeable on an association are to income tax (other than income tax which the association is entitled to deduct on making any payment) and corporation tax.
 - (4) A grant under this section may be made—
 - (a) in a case falling within subsection (1)(a) for affording relief from any tax chargeable on the association for the period in respect of which the claim is made, and
 - (b) in a case falling within subsection (1)(b), for affording relief from such part of any tax so chargeable as the Secretary of State considers appropriate having regard to the other functions of the association ;and in any case shall be of such amount, shall be made at such times and shall be subject to such conditions as the Secretary of State thinks fit.
 - (5) The conditions may include conditions for securing the repayment in whole or in part of a grant made to an association in the event of tax in respect of which it was made subsequently being found not to be chargeable or in such other events including the association subsequently beginning to trade for profit) as the Secretary of State may determine.
 - (6) A claim under this section shall be made in such manner and shall be supported by such evidence as the Secretary of State may direct.
 - (7) The Commissioners of Inland Revenue and their officers may disclose to the Secretary of State such particulars as he may reasonably require for determining whether a grant should be made on a claim or whether a grant should be repaid or the amount of such a grant or repayment.

Building society advances

63 Building society advances: certain advances not special advances but subject to their own limit

- (1) An advance to which this section applies is one made by a building society to a housing association on the security of a freehold or leasehold estate by means of a mortgage where—

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

- (a) immediately before the execution of the mortgage, the Housing Corporation has an interest in the same freehold or leasehold estate under a mortgage entered into by the housing association, and
 - (b) the security represented by the last-mentioned mortgage is, with the agreement of the Corporation, postponed to the building society's security under the first-mentioned mortgage.
- (2) The following advances—
- (a) an advance to which this section applies, and
 - (b) an advance which in accordance with section 21(7) of the Building Societies Act 1962 a building society is treated as having made by reason of a transfer from one housing association to another, or from a housing association to the Housing Corporation, or from the Housing Corporation to a housing association, of the mortgagor's interest under a mortgage securing an advance made by the building society,
- do not constitute special advances as defined by section 21 of the Building Societies Act 1962 and shall not be brought into account under section 22(2)(b) of that Act (ordinary limits on special advances).
- (3) A building society shall not in the first financial year in which it makes advances on the security of freehold or leasehold estate make any advances to which this section applies.
- (4) In any subsequent financial year a building society shall not, except in accordance with a permission under subsection (5), make advances to which this section applies of a total amount which exceeds 15 per cent. of the total of the advances of all descriptions made by the building society in the last preceding financial year on the security of freehold or leasehold estate.
- (5) The Chief Registrar may, if he thinks fit, grant to a building society permission in writing to make advances to which this section applies in excess of the limit imposed by subsection (4), but subject to such other limits as may be specified in the permission.
- (6) For the purposes of this section—
- (a) " financial year " has the meaning given by section 128 of, and paragraph 11 of Schedule 8 to, the Building Societies Act 1962, subject to paragraph (b) below;
 - (b) for the purposes of subsection (4) if a financial year is shorter or longer than the last preceding financial year, a corresponding reduction or increase shall be made in the figure of 15 per cent. mentioned in that subsection ; and
 - (c) section 21(7) of the Building Societies Act 1962 (deemed advance on transfer of mortgage) applies for the purpose of ascertaining what advances a building society has made in a financial year.

64 Failure to comply with limit on advances an offence

- (1) If a building society does not comply with the requirements of section 63(3), (4) and (5) (limits on advances to which that section applies)—
- (a) the society and
 - (b) every officer of the society who knowingly or wilfully authorises or permits the failure to comply,
- commits an offence which is triable either way.

- (2) A society which is convicted of an offence under this section is liable—
 - (a) on conviction on indictment, to a fine, and
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (3) An officer who is convicted of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both ;
 - (b) on summary conviction, to imprisonment for a term not exceeding three months, or a fine not exceeding the statutory maximum, or both.
- (4) In this section " statutory maximum " has the meaning given by section 74 of the Criminal Justice Act 1982.

65 Building society advances: advances by more than one building society

A building society may make an advance to which section 63 applies by means of a mortgage under which the same freehold or leasehold estate constitutes the security both for that advance and for advances made to the same housing association by one or more other persons by means of the same mortgage, but only if—

- (a) every other person making an advance by means of that mortgage is another building society, and
- (b) the mortgagees in the mortgage all covenant with each other not to transfer their interests as mortgagees to a person who is not a building society.

66 Application of ss. 63 to 65 to Scotland

In the application to Scotland of sections 63 to 65 (building society advances)—

- (a) for the references to freehold or leasehold estate, substitute references to an estate or interest in land ;
- (b) for the references to an advance on the security of freehold or leasehold estate, or to an advance by means of a mortgage, and similar references, substitute references to an advance upon a heritable security ;
- (c) for the references to a mortgage, mortgagor or mortgagee substitute, respectively, references to a heritable security, a debtor in a heritable security and the creditor in a heritable security;
- (d) for the reference to an offence triable either way substitute a reference to an offence triable either summarily or on indictment.

Loans by Public Works Loan Commissioners

67 Loans by Public Works Loan Commissioners: England and Wales

- (1) The Public Works Loan Commissioners may lend money to a housing association—
 - (a) for the purpose of constructing or improving, or facilitating or encouraging the construction or improvement, of houses,
 - (b) for the purchase of houses which the association desires to purchase with a view to their improvement, "and
 - (c) for the purchase and development of land.

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

- (2) A loan for any of those purposes, and interest on the loan, shall be secured by mortgage of—
- (a) the land in respect of which that purpose is to be carried out, and
 - (b) such other lands, if any, as may be offered as security for the loan ;
- and the money lent shall not exceed three-quarters (or, if the payment of the principal of, and interest on, the loan is guaranteed by a local authority, nine-tenths) of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in the land proposed to be so mortgaged.
- (3) Loans may be made by instalments as the building of houses or other work on land mortgaged under subsection (2) progresses (so, however, that the total amount lent does not at any time exceed the amount specified in that subsection); and a mortgage may be accordingly made to secure such loans so to be made.
- (4) If the loan exceeds two-thirds of the value referred to in subsection (2), and is not guaranteed as to principal and interest by a local authority, the Public Works Loan Commissioners shall require, in addition to such a mortgage as is mentioned in that subsection, such further security as they may think fit.
- (5) Subject to subsection (6), the period for repayment of a loan under this section shall not exceed 40 years, and no money shall be lent on mortgage of any land unless the estate proposed to be mortgaged is either an estate in fee simple absolute in possession or an estate for a term of years absolute of which not less than 50 years are unexpired at the date of the loan.
- (6) Where a loan under this section is made for the purpose of carrying out a scheme for the provision of houses approved by the Secretary of State, the maximum period for the repayment of the loan is 50 instead of 40 years, and money may be lent on the mortgage of an estate for a term of years absolute of which a period of not less than ten years in excess of the period fixed for the repayment of the sums advanced remains unexpired at the date of the loan.

68 Loans by Public Works Loan Commissioners: Scotland

- (1) The Public Works Loan Commissioners may lend money to a housing association—
- (a) for the purpose of constructing or improving, or facilitating or encouraging the construction or improvement of, houses,
 - (b) for the purchase of houses, and
 - (c) for the purchase and development of land.
- (2) A loan for any of those purposes shall be secured with interest by a heritable security over—
- (a) the land in respect of which that purpose is to be carried out, and
 - (b) such other land, if any, as may be offered as security for the loan;
- and the money lent shall not exceed three-quarters (or, if the payment of the principal of and interest on the loan is guaranteed by a local authority, nine-tenths) of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in the land proposed to be burdened.
- (3) Loans may be made by instalments as the building of houses or other work on the land burdened under subsection (2) progresses (so, however, that the total loans do not at

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any time exceed the amount specified in that subsection); and the heritable security may be granted accordingly to secure such loans so to be made.

- (4) If the loan exceeds two-thirds of the value referred to in subsection (2), and is not guaranteed as to principal and interest by a local authority, the Public Works Loan Commissioners shall require, in addition to such a heritable security as is mentioned in that subsection, such further security as they may think fit.
- (5) Subject to subsection (6), the period for repayment of a loan under this section shall not exceed 40 years, and no money shall be lent on the security of any land unless the estate or interest proposed to be burdened is either ownership or a lease of which a period of not less than 50 years remains unexpired at the date of the loan.
- (6) Where a loan under this section is made for the purposes of carrying out a scheme for the provision of houses approved by the Secretary of State, the maximum period for the repayment of the loan is 50 instead of 40 years, and money may be lent on heritable security over a lease recorded under the Registration of Leases (Scotland) Act 1857 of which a period of not less than ten years in excess of the period fixed for the repayment of the loan remains unexpired at the date of the loan.

Miscellaneous

69 Power to vary or terminate certain agreements with housing associations

- (1) This section applies to agreements of the following descriptions—
 - (a) an agreement for a loan to a housing association by the Housing Corporation under section 2 of the Housing Act 1964;
 - (b) an agreement which continues in force under Part I of Schedule 4 (arrangements with local authority for the provision or improvement of housing);
 - (c) an agreement to which Part II of Schedule 4 applies (subsidy agreements with local authorities);
 - (d) an agreement which continues in force under Part III of Schedule 4 (special arrangements with the Secretary of State);
 - (e) an agreement for a loan or grant to a housing association under section 58(2) or 59(2) (financial assistance by local authorities);
 - (f) a scheme which continues in force under Part V of Schedule 5 (schemes for unification of grant conditions).
- (2) On the application of a party to an agreement to which this section applies, the Secretary of State may, if he thinks fit, direct—
 - (a) that the agreement shall have effect with such variations, determined by him or agreed by the parties, as may be specified in the direction, or
 - (b) that the agreement shall be terminated.
- (3) No variation shall be directed under subsection (2) which would have the effect of including in an agreement a term—
 - (a) limiting the aggregate amount of rents payable in respect of dwellings to which the agreement relates or contributions towards the cost of maintaining such dwellings, or
 - (b) specifying a limit which the rent of a dwelling is not to exceed.

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This subsection does not extend to Scotland.

- (4) No variation shall be directed under subsection (2) which would have the effect of including in an agreement a term relating to the rent payable in respect of a house to which the agreement relates or contributions towards the cost of maintaining such a house. This subsection extends to Scotland only.

70 Continuation of arrangements under repealed enactments

The provisions of Schedule 4 have effect in relation to certain arrangements affecting housing associations which continue in force despite the repeal of the enactments under or by reference to which they were made, as follows—

Part I—Arrangements with local authorities for the provision or improvement of housing.

Part II—Subsidy agreements with local authorities.

Part III—Special arrangements with the Secretary of State in Scotland.

71 Superseded contributions, subsidies and grants

The provisions of Schedule 5 have effect with respect to superseded subsidies, contributions and grants, as follows—

Part I—Residual subsidies: England and Wales.

Part II—Residual subsidies: Scotland.

Part III—Contributions and grants under arrangements with local authorities.

Part IV—Contributions under arrangements with the Secretary of State in Scotland.

Part V—Schemes for the unification of grant conditions.

Part VI—New building subsidy and improvement subsidy.

Part VII—Payments in respect of hostels under pre-1974 enactments.

Supplementary provisions

72 Minor definitions

In this Part—

" building society " has the same meaning as in the Building Societies Act 1962;

" Chief Registrar ", in relation to a building society, means the Chief Registrar of Friendly Societies;

" officer ", in relation to a building society, has the same meaning as in the Building Societies Act 1962; " registered charity " has the same meaning as in Part I.

73 Index of defined expressions: Part II

The following Table shows provisions defining or explaining expressions used in this Part (other than provisions defining or explaining an expression in the same section):

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approved development programme	section 41(2)
building society	section 72
Chief Registrar (in relation to a building society)	section 72
co-operative housing association	section 1(2)
dwelling	section 106
fully mutual (in relation to a housing association)	section 1(2)
heritable security	section 106
hostel	section 106
hostel deficit grant	section 55
house	section 106
housing activities	section 106
housing association	section 1(1)
housing association grant	section 41(1)
housing project	sections 42 to 45
local authority	section 106
local housing authority	section 104
officer (in relation to a building society)	section 72
registered and related expressions (in relation to a housing association)	section 3(2)
registered charity	section 72
revenue deficit grant	section 54
self-build society	section 1(3)
shared ownership lease	section 106

PART III

THE HOUSING CORPORATION

Constitution and other general matters

74 The Housing Corporation

- (1) This Part has effect with respect to the Housing Corporation, which is referred to in this Part as " the Corporation ".
- (2) The provisions of Schedule 6 have effect with respect to the constitution and proceedings of, and other matters relating to, the Corporation.

75 General functions of the Corporation

- (1) The Corporation has the following general functions—
 - (a) to promote and assist the development of registered housing associations and unregistered self-build societies;
 - (b) to facilitate the proper performance of the functions, and to publicise the aims and principles, of registered housing associations and unregistered self-build societies;
 - (c) to maintain a register of housing associations and to exercise supervision and control over registered housing associations;
 - (d) to act as the Secretary of State's agent, to such extent as he may require, with respect to the consideration of applications for, and the payment of grants to, registered housing associations ;
 - (e) to undertake, to such extent as the Corporation considers necessary, the provision (by construction, acquisition, conversion, improvement or otherwise) of dwellings for letting or for sale and of hostels, and the management of dwellings or hostels so provided.
- (2) The Corporation shall exercise its general functions subject to and in accordance with the provisions of this Act.
- (3) Subsection (1) is without prejudice to specific functions conferred on the Corporation by or under this Act.
- (4) The Corporation may do such things and enter into such transactions as are incidental to or conducive to the exercise of any of its functions, general or specific, under this Act.

76 Directions by the Secretary of State

- (1) The Secretary of State may give directions to the Corporation as to the exercise of its functions.
- (2) A direction as to the terms of loans made under section 79 (lending powers of Corporation) requires the consent of the Treasury.
- (3) Directions may be of a general or particular character and may be varied or revoked by subsequent directions.
- (4) Non-compliance with a direction does not invalidate a transaction between a person and the Corporation unless the person had actual notice of the direction.

77 Advisory service

- (1) The Corporation may provide an advisory service for the purpose of giving advice on legal, architectural and other technical matters to housing associations (whether registered or unregistered) and to persons who are forming a housing association or are interested in the possibility of doing so.
- (2) The Corporation may make charges for the service.

78 Annual report

- (1) The Corporation shall, as soon as possible after the end of each financial year, make a report to the Secretary of State on the exercise of its functions during the year.
- (2) It shall include in the report a copy of its audited accounts and shall set out in the report any directions given to it by the Secretary of State during the year.
- (3) The Secretary of State shall lay a copy of the report before each House of Parliament.

Corporation's powers with respect to grants and loans

79 Lending powers

- (1) The Corporation may lend to—
 - a registered housing association,
 - an unregistered self-build society,
 - a subsidiary of the Corporation, or
 - any other body in which the Corporation holds an interest,for the purpose of enabling the body to meet the whole or part of expenditure incurred or to be incurred by it in carrying out its objects.
- (2) The Corporation may lend to an individual for the purpose of assisting him to acquire from the Corporation, or from any such body as is mentioned in subsection (1), a legal estate or interest in a dwelling which he intends to occupy.
- (3) A loan under this section may be by way of temporary loan or otherwise, and the terms of a loan made under subsection (1) may include (though the terms of a loan made under subsection (2) may not) terms for preventing repayment of the loan or part of it before a specified date without the consent of the Corporation.
- (4) The terms of a loan under this section shall, subject to subsection (3) and to any direction under section 76 (general power of Secretary of State to give directions), be such as the Corporation may determine, either generally or in a particular case.

80 Security for loans to unregistered self-build societies

- (1) Where the Corporation—
 - (a) makes a loan to an unregistered self-build society under section 79(1); and
 - (b) under a mortgage or heritable security entered into by the society to secure the loan has an interest as mortgagee or creditor in land belonging to the society,it may, with the written consent of the Secretary of State, give the society directions with respect to the disposal of the land.
- (2) The society shall comply with directions so given so long as the Corporation continues to have such an interest in the land.
- (3) Directions so given may be varied or revoked by subsequent directions given with the like consent.
- (4) The Secretary of State shall not consent to the Corporation's giving directions under this section requiring a society to transfer its interest in land to the Corporation, or to any other person, unless he is satisfied that arrangements have been made which

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will secure that the members of the society receive fair treatment in connection with the transfer.

81 Further advances in case of disposal on shared ownership lease

Where—

- (a) a lease of a dwelling, granted otherwise than in pursuance of the provisions of Part V of the Housing Act 1985 (the right to buy) relating to shared ownership leases, contains a provision to the like effect as that required by paragraph 1 of Schedule 8 to that Act (terms of shared ownership lease: right of tenant to acquire additional shares), and
- (b) the Corporation has, in exercise of any of its powers, left outstanding or advanced any amount on the security of the dwelling,

that power includes power to advance further amounts for the purpose of assisting the tenant to make payments in pursuance of that provision.

82 Loans made under s. 2 of the Housing Act 1964

Schedule 7 (further powers of Corporation with respect to land of certain housing associations) applies where a loan has been made to a housing association under section 2 of the Housing Act 1964 and the loan has not been repaid.

83 Power to guarantee loans

- (1) The Corporation may, with the consent of the Secretary of State given with the approval of the Treasury, guarantee the repayment of the principal of, and the payment of interest on, sums borrowed by—
 - registered housing associations,
 - unregistered self-build societies, or
 - other bodies in which the Corporation holds an interest.
- (2) Where the Corporation gives such a guarantee, it may impose such terms and conditions as it thinks fit.
- (3) The aggregate amount outstanding in respect of—
 - (a) loans for which the Corporation has given a guarantee under this section, and
 - (b) payments made by the Corporation in meeting an obligation arising by virtue of such a guarantee and not repaid to the Corporation,
 shall not exceed £300 million or such greater sum not exceeding £500 million as the Secretary of State may specify by order made with the approval of the Treasury.
- (4) An order under subsection (3) shall be made by statutory instrument and no such order shall be made unless a draft of it has been laid before and approved by the House of Commons.

84 Agreements to indemnify certain lenders: England and Wales

- (1) The Corporation may, with the approval of the Secretary of State, enter into an agreement with—
 - (a) a building society lending on the security of a house, or
 - (b) a recognised body making a relevant advance on the security of a house,

whereby, in the event of default by the mortgagor, and in circumstances and subject to conditions specified in the agreement, the Corporation binds itself to indemnify the society or body in respect of the whole or part of the mortgagor's outstanding indebtedness and any loss or expense falling on the society or body in consequence of the mortgagor's default.

- (2) The agreement may also, if the mortgagor is made party to it, enable or require the Corporation in specified circumstances to take a transfer of the mortgage and assume rights and liabilities under it, the building society or recognised body being then discharged in respect of them.
- (3) The transfer may be made to take effect—
 - (a) on terms provided for by the agreement (including terms involving substitution of a new mortgage agreement or modification of the existing one), and
 - (b) so that the Corporation is treated as acquiring (for and in relation to the purposes of the mortgage) the benefit and burden of all preceding acts, omissions and events.
- (4) The Secretary of State may approve particular agreements or give notice that particular forms of agreement have his approval, and in either case may make his approval subject to conditions.
- (5) The Secretary of State shall, before giving notice that a particular form of agreement has his approval, consult—
 - (a) in the case of a form of agreement with a building society, the Chief Registrar of Friendly Societies and such organisations representative of building societies and local authorities as he thinks expedient, and
 - (b) in the case of a form of agreement with a recognised body, such organisations representative of such bodies and local authorities as he thinks expedient.
- (6) Section 16(3) and (5) of the Restrictive Trade Practices Act: 1976 (recommendations by services supply associations to members) does not apply to recommendations made to building societies or recognised bodies about the making of agreements under this section, provided that the recommendations are made with the approval of the Secretary of State, which may be withdrawn at any time on one month's notice.

85 Meaning of " recognised body " and " relevant advance "

- (1) The expressions " recognised body " and " relevant advance " in section 84 (agreements to indemnify certain lenders) shall be construed in accordance with the following provisions.
- (2) A " recognised body " means a body specified, or of a class or description specified, in an order made by statutory instrument by the Secretary of State with the consent of the Treasury.
- (3) Before making such an order varying or revoking an order previously made, the Secretary of State shall give an opportunity for representations to be made on behalf of a recognised body which, if the order were made, would cease to be such a body.
- (4) A " relevant advance " means an advance made to a person whose interest in the dwelling is or was acquired by virtue of a conveyance of the freehold or an assignment of a long lease, or a grant of a long lease by—

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a local authority,
a new town corporation,
an urban development corporation,
the Development Board for Rural Wales,
the Corporation, or
a registered housing association.

- (5) In subsection (4) " long lease " has the same meaning as in Part V of the Housing Act 1985 (the right to buy).

86 Agreements to indemnify building societies: Scotland

- (1) The Corporation may, with the approval of the Secretary of State, enter into an agreement with a building society under which the Corporation binds itself to indemnify the building society in respect of—
- (a) the whole or part of any outstanding indebtedness of a borrower; and
 - (b) loss or expense to the building society resulting from the failure of the borrower duly to perform any obligation imposed on him by the heritable security.
- (2) The agreement may also, where the borrower is made party to it, enable or require the Corporation in specified circumstances to take an assignation of the rights and liabilities of the building society under the heritable security.
- (3) Approval of the Secretary of State under subsection (1) may be given generally in relation to agreements which satisfy specified requirements, or in relation to individual agreements, and with or without conditions, as he thinks fit, and such approval may be withdrawn at any time on one month's notice.
- (4) Before issuing any general approval under subsection (1) the Secretary of State shall consult with such bodies as appear to him to be representative of islands and district councils, and of building societies, and also with the Corporation and with the Chief Registrar of Friendly Societies.
- (5) Section 16(3) and (5) of the Restrictive Trade Practices Act 1976 (recommendations by services supply associations to members) does not apply to recommendations made to building societies about the making of agreements under this section provided that the recommendations are made with the approval of the Secretary of State.

87 Grants towards expenses in promoting or assisting registered housing associations

- (1) The Corporation may make grants to registered housing associations and other voluntary organisations towards expenses incurred by them—
- (a) in encouraging and giving advice on the formation of housing associations which would be eligible for registration under Part I, and
 - (b) in providing services for, and giving advice on the running of, registered housing associations.
- (2) Any such grant may be made subject to such conditions as the Corporation may determine.

- (3) The exercise of the Corporation's powers under subsection (1) or (2) requires the consent of the Secretary of State and the Treasury.
- (4) In this section "voluntary organisation" means an organisation whose activities are not carried on for profit.

Corporation's powers with respect to land and works

88 Acquisition of land

- (1) The Corporation may acquire land by agreement for the purpose of—
 - (a) selling or leasing it to a registered housing association or an unregistered self-build society, or
 - (b) providing dwellings (for letting or for sale) or hostels,and may be authorised by the Secretary of State to acquire land compulsorily for any such purpose.
- (2) Land may be so acquired by the Corporation notwithstanding that it is not immediately required for any such purpose.
- (3) In relation to a compulsory purchase of land by the Corporation under this section—
 - (a) in England and Wales, the Acquisition of Land Act 1981 applies;
 - (b) in Scotland, the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 applies as if the Corporation were a local authority and as if this section were contained in an Act in force immediately before the commencement of that Act.
- (4) For the purposes of the purchase of land in Scotland by agreement by the Corporation—
 - (a) the Lands Clauses Acts (except so much of them as relates to the acquisition of land otherwise than by agreement, the provisions relating to access to the special Act and sections 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845), and
 - (b) sections 6 and 70 to 78 of the Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the Mines (Working Facilities and Support) Act 1923),are hereby incorporated with this section, and in construing those Acts for the purposes of this section this section shall be deemed to be the special Act and the Corporation shall be deemed to be the promoters of the undertaking or company, as the case may require.
- (5) In Scotland the Corporation may (without prejudice to their own power to acquire land compulsorily) request the Scottish Special Housing Association to acquire land compulsorily on its behalf (as provided in section 175(2) of the Housing (Scotland) Act 1966) for any purpose for which the Corporation may purchase land compulsorily.

89 Provision of dwellings or hostels and clearance, management and development of land

- (1) The Corporation may provide or improve dwellings or hostels on land belonging to it

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- (2) The Corporation may clear land belonging to it and carry out other work on the land to prepare it as a building site or estate, including—
 - (a) the laying out and construction of streets or roads and open spaces, and
 - (b) the provision of sewerage facilities and supplies of gas, electricity and water.
- (3) The Corporation may repair, maintain and insure buildings or works on land belonging to it, may generally deal in the proper course of management with such land and buildings or works on it, and may charge for the tenancy or occupation of such land, buildings or works.
- (4) The Corporation may carry out such operations on, and do such other things in relation to, land belonging to it as appear to it to be conducive to facilitating the provision or improvement of dwellings or hostels on the land—
 - (a) by the Corporation itself, or
 - (b) by a registered housing association or unregistered self build society.
- (5) In the exercise of its powers under subsection (4) the Corporation may carry out any development ancillary to or in connection with the provision of dwellings or hostels, including development which makes provision for buildings or land to be used for commercial, recreational or other non-domestic purposes.

90 Disposal of land

- (1) The Corporation may dispose of land in respect of which it has not exercised its powers under section 89(1) (provision or improvement of dwellings or hostels) and on which it has not carried out any such development as is mentioned in section 89(5) (ancillary development) to—
 - a registered housing association,
 - an unregistered self-build society,
 - a subsidiary of the Corporation, or
 - any other body in which the Corporation holds an interest.
- (2) The Corporation may dispose of land on which dwellings or hostels have been provided or improved in exercise of its powers under section 89 to—
 - a registered housing association,
 - a local authority,
 - a new town corporation,
 - the Scottish Special Housing Association,
 - the Development Board for Rural Wales, or
 - a subsidiary of the Corporation.
- (3) The Corporation may sell or lease individual dwellings to persons for their own occupation ; but where the dwelling concerned was acquired by compulsory purchase under section 88(1), it shall not be disposed of under this subsection without the written consent of the Secretary of State.
- (4) The Corporation may dispose of a building or land intended for use for commercial, recreational or other non-domestic purposes in respect of which development has been carried out by virtue of section 89 ; but no such building or land shall be disposed of for less than the best consideration it commands except with the written consent of the Secretary of State.

- (5) The Corporation may dispose of land which is not required for the purposes for which it was acquired; but where the land—
- (a) was acquired compulsorily by, or on behalf of, the Corporation or by a local housing authority who transferred it to the Corporation, or
 - (b) is disposed of (otherwise than for use as, or in connection with, a highway or street) for less than the best consideration it commands,
- the Corporation shall not dispose of the land except with the written consent of the Secretary of State.
- (6) The Corporation may not dispose of land except in accordance with the provisions of this section.

91 Protection of persons deriving title under transactions requiring consent

Where the Corporation purport to acquire or dispose of land—

- (a) in favour of a person claiming under the Corporation the transaction is not invalid by reason that any consent of the Secretary of State which is required has not been given, and
- (b) a person dealing with the Corporation, or with a person claiming under the Corporation, shall not be concerned to see or inquire whether any such consent has been given.

The Corporation's finances

92 Borrowing powers

- (1) The Corporation may borrow from the Secretary of State, and the Secretary of State may lend to the Corporation, by way of temporary loan or otherwise, such sums in sterling as the Corporation may require.
- (2) The Corporation may, with the consent of the Secretary of State or in accordance with a general authorisation given by him, borrow temporarily by overdraft or otherwise such sums in sterling as the Corporation may require.
- (3) The Corporation may, with the consent of the Secretary of State, borrow—
- (a) from the European Investment Bank or the Commission of the European Communities, sums in any currency, and
 - (b) from any other person, sums in a currency other than sterling.
- (4) A loan made to the Corporation by the Secretary of State shall be repaid to him at such times and by such methods, and interest on the loan shall be paid to him at such rates and at such times, as he may from time to time determine.
- (5) The Treasury may issue to the Secretary of State out of the National Loans Fund such sums as are necessary to enable him to make loans to the Corporation in pursuance of this section ; and sums received by the Secretary of State in pursuance of subsection (4) shall be paid into that Fund.
- (6) The Secretary of State may act under this section only with the approval of the Treasury.

93 Limit on borrowing

- (1) The Corporation has only the borrowing powers conferred by section 92 and those powers are exercisable subject to the following limit.
- (2) The aggregate amount outstanding by way of principal of—
 - (a) advances made to the Corporation under section 9 of the Housing Act 1964 before 18th September 1974 (when that section was repealed),
 - (b) advances made to housing associations before 1st April 1975 in respect of which the rights and obligations of the Secretary of State were then transferred to the Corporation by section 34 of the Housing Act 1974,
 - (c) money borrowed by the Corporation under section 92, and
 - (d) money borrowed by a subsidiary of the Corporation otherwise than from the Corporation,shall not exceed £2,500 million or such greater sum not exceeding £3,000 million as the Secretary of State may specify by order made with the consent of the Treasury.
- (3) An order under subsection (2) shall be made by statutory instrument and no such order shall be made unless a draft of it has been laid before and approved by the House of Commons.
- (4) In ascertaining the limit imposed by subsection (2), interest payable on a loan made by the Secretary of State to the Corporation which, with the approval of the Treasury, is deferred and treated as part of the loan, shall, so far as outstanding, be treated as outstanding by way of principal.
- (5) The power of the Corporation to borrow from a subsidiary of the Corporation is not affected by subsection (1) and borrowing from such a subsidiary shall be left out of account for the purposes of subsection (2).

94 Treasury guarantees of borrowing

- (1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of and the payment of interest on and the discharge of any other financial obligation in connection with sums which the Corporation borrows from a person other than the Secretary of State.
- (2) Immediately after a guarantee is given the Treasury shall lay a statement of the guarantee before each House of Parliament.
- (3) Any sums required by the Treasury for fulfilling the guarantee shall be charged on and issued out of the Consolidated Fund.
- (4) If any sums are so issued, the Corporation shall make to the Treasury, at such times and in such manner as the Treasury may from time to time direct—
 - (a) payments of such amounts as the Treasury so direct in or towards repayment of the sums so issued, and
 - (b) payments of interest, at such rate as the Treasury so direct, on what is outstanding for the time being in respect of sums so issued.
- (5) Sums received by the Treasury in pursuance of subsection (4) shall be paid into the Consolidated Fund.
- (6) Where a sum is issued for fulfilling a guarantee given under this section, the Treasury shall, as soon as possible after the end of each financial year, beginning with that in

which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged, lay before each House of Parliament a statement relating to the sum.

95 Grants to Corporation

- (1) The Secretary of State may make such grants to the Corporation as appear to him to be required to enable the Corporation to meet the expenses incurred by it in the exercise of its functions.
- (2) A grant may be made subject to such conditions as the Secretary of State may determine.
- (3) The Secretary of State may act under this section only with the consent of the Treasury.

96 General financial provisions

- (1) The Corporation may turn its resources to account so far as they are not required for the exercise of its functions.
- (2) If for an accounting year the revenues of the Corporation exceed the total sums properly chargeable to revenue account, the Corporation shall apply the excess in such manner as the Secretary of State may, after consultation with the Corporation, direct; and the Secretary of State may direct that the whole or part of the excess be paid to him.
- (3) The Secretary of State may give directions to the Corporation as to matters relating to—
 - (a) the establishment or management of reserves,
 - (b) the carrying of sums to the credit of reserves, or
 - (c) the application of reserves for the purposes of the Corporation's functions.
- (4) The Secretary of State may, after consultation with the Corporation, direct the Corporation to pay to him the whole or part of any sums for the time being standing to the credit of reserves of the Corporation or being of a capital nature and not required for the exercise of the Corporation's functions.
- (5) The Secretary of State may act under this section only with the approval of the Treasury.

97 Accounts and audit

- (1) The Corporation shall keep proper accounts and proper records in relation to the accounts and shall prepare in respect of each financial year annual accounts in such form as the Secretary of State may, with the approval of the Treasury, direct.
- (2) The accounts of the Corporation for each financial year shall be audited by a qualified accountant appointed for the purpose by the Secretary of State.
- (3) As soon as the annual accounts of the Corporation for a financial year have been audited, the Corporation shall send to the Secretary of State a copy of the accounts prepared by it for the year in accordance with this section, together with a copy of any report made on them by the auditor.
- (4) The Secretary of State shall prepare in respect of each financial year, in such form and manner as the Treasury may direct, an account of—

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- (a) the sums issued to him and lent to the Corporation, and
 - (b) sums received by him from the Corporation and paid into the National Loans Fund in respect of the principal and interest on sums so lent, or on sums advanced to the Corporation under section 9 of the Housing Act 1964,
- and shall transmit the accounts so prepared by him to the Comptroller and Auditor General on or before 30th November in the following financial year.
- (5) The Comptroller and Auditor General shall examine and certify the accounts prepared by the Secretary of State and lay before each House of Parliament copies of the accounts together with his report on them.
- (6) In this section " qualified accountant " means a person who is a member, or a firm all the partners in which are members, of one or more of the following bodies—
- (a) the Institute of Chartered Accountants in England and Wales;
 - (b) the Institute of Chartered Accountants in Scotland ;
 - (c) the Association of Certified Accountants ;
 - (d) the Institute of Chartered Accountants in Ireland ;
 - (e) any other body of accountants established in the United Kingdom and recognised for the purposes of section 389(1)(a) of the Companies Act 1985.

Acquisition of securities and control of subsidiaries

98 Acquisition of securities and promotion of body corporate

- (1) The Corporation may with the consent of the Secretary of State—
- (a) subscribe for or acquire securities of a body corporate, and
 - (b) promote or participate in the promotion of a body corporate.
- (2) In this section " securities " means shares, stock, debenture stock and other securities of a like nature.

99 Control of subsidiaries

- (1) The Corporation shall exercise its control over its subsidiaries so as to secure that no subsidiary—
- (a) engages in an activity which the Corporation is not empowered to carry on, or
 - (b) engages in an activity in a manner in which the Corporation itself could not engage by reason of a direction given to it under section 76 (directions by Secretary of State).
- (2) The Corporation shall also exercise its control over its subsidiaries so as to secure that no subsidiary of its—
- (a) borrows money from a person other than the Corporation, or
 - (b) raises money by the issue of shares or stock to a person other than the Corporation,
- without the consent of the Secretary of State.

Supplementary provisions

100 Scottish Special Housing Association may act as agents for Corporation in Scotland

The Corporation may, on such terms and conditions as may be agreed between it and the Scottish Special Housing Association, authorise the Association to act in Scotland as the agents of the Corporation for the purpose of carrying out any of the functions vested in the Corporation under—

- (a) section 77 (advisory service).
- (b) sections 88 and 89 (powers with respect to land and works), or
- (c) paragraph 5 of Schedule 7 (schemes for provision of housing accommodation in place of a housing association).

101 Minor definitions

In this Part—

" building society " means a building society within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967 ;

" financial year " means the period of 12 months ending with the 31st March ;

" highway ", in relation to Scotland, includes a public right of way;

" subsidiary " has the same meaning as in the Companies Act.

102 Index of defined expressions: Part III

The following Table shows provisions defining or ex-plaining expressions used in this Part (other than provision defining or explaining an expression in the same section paragraph):—

building society	section 101
the Companies Act	section 106
dwelling	section 106
financial year	section 101
heritable security	section 106
highway (in relation to Scotland)	section 101
hostel	section 106
housing association	section 1(1)
local authority	section 106
local housing authority	section 104
new town corporation	section 106
recognised body	section 85(2)
registered (in relation to a housing association)	section 3(2)

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relevant advance	section 85(4);
self-build society	section 1(3)
subsidiary	section 101
unregistered (in relation to a housing association)	section 3(2)
urban development corporation	section 106

PART IV

GENERAL PROVISIONS

General provisions

103 Application to Isles of Scilly

- (1) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.
- (2) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament

104 Local housing authorities

- (1) In this Act " local housing authority "—
 - (a) in relation to England and Wales, has the meaning given by section 1 of the Housing Act 1985, and
 - (b) in relation to Scotland, means an islands or district council.
- (2) References in this Act to the district of a local housing authority—
 - (a) in England and Wales shall be construed in accordance with section 2 of the Housing Act 1985, and
 - (b) in Scotland are to the islands area or the district, as the case may be.

105 Members of a person's family

- (1) A person is a member of another's family if—
 - (a) he is the spouse of that person, or he and that person live together as husband and wife, or
 - (b) he is that person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purposes of subsection (1)(b)—
 - (a) a relationship by marriage shall be treated as a relationship by blood,
 - (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
 - (c) the stepchild of a person shall be treated as his child, and
 - (d) an illegitimate child shall be treated as the legitimate child of his mother and reputed father.

106 Minor definitions-general

(1) In the application of this Act in England and Wales—

" bank " means—

- (a) a recognised bank within the meaning of the Banking Act 1979, or
- (b) a company as to which the Secretary of State was satisfied immediately before the repeal of the Protection of Depositors Act 1963 that it ought to be treated as a banking company or discount company for the purposes of that Act;

" the Companies Act " means the Companies Act 1985 ;

" dwelling " means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

" friendly society " means a friendly society or branch of a friendly society registered under the Friendly Societies Act 1974 or earlier legislation ;

" hostel " means a building in which is provided for persons generally or for a class or classes of persons—

- (a) residential accommodation otherwise than in separate and self-contained sets of premises, and
- (b) either board or facilities for the preparation of food adequate to the needs of those persons, or both;

" house " includes—

- (a) any part of a building which is occupied or intended to be occupied as a separate dwelling ;
- (b) any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it;

" housing activities, in relation to a registered housing association, means all its activities in pursuance of the objects, powers or purposes by reference to which it is to be regarded as a housing association and as eligible for registration;

" insurance company " means an insurance company to which Part II of the Insurance Companies Act 1982 applies;

" local authority " means a county, district, or London borough council, the Common Council of the City of London or the Council of the Isles of Stilly and in sections 84(5) and 85(4) includes the Inner London Education Authority and a joint authority established by Part IV of the Local Government Act 1985 ;

" new town corporation " means the Commission for the New Towns or a development corporation within the meaning of the New Towns Act 1981;

" shared ownership lease " means a lease—

- (a) granted on payment of a premium calculated by reference to a percentage of the value of the house or dwelling or of the cost of providing it, or
- (b) under which the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference directly or indirectly to the value of the house or dwelling;

" trustee savings bank " means a trustee savings bank registered under the Trustee Savings Banks Act 1981 or earlier legislation;

" urban development corporation " means an urban development corporation established under Part (VI) of the Local Government, Planning and Land Act 1980.

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(2) In the application of this Act in Scotland—

" bank " has the same meaning as in subsection (1);

" charge " includes a heritable security ;

" the Companies Act " has the same meaning as in subsection (1);

" dwelling " means a house;

" friendly society " has the same meaning as in subsection (1);

" heritable security " means any security capable of being constituted over any interest in land by disposition or assignation of that interest in security of any debt and of being recorded in the Register of Sasines or, as the case may be, registered in the Land Register of Scotland and which includes a security constituted by an ex facie absolute disposition or assignation or by a standard security;

" hostel " means—

(a) in relation to a building provided or converted before 3rd January 1962, a building in which is provided, for persons generally or for any class or classes of persons, residential accommodation (otherwise than in separate and self-contained dwellings) and board, and

(b) in relation to a building provided or converted on or after that date, a building in which is provided for persons generally or for any class or classes of persons, residential accommodation (otherwise than in houses) and either board or common facilities for the preparation of adequate food to the needs of those persons, or both ;

" house " includes—

(a) any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and in particular includes a flat, and

(b) includes also any yard, garden, outhouses and pertinents belonging to the house or usually enjoyed with it;

" housing activities " has the same meaning as in subsection (1);

" insurance company " has the same meaning as in subsection (1);

" local authority " means an islands council or district council;

" mortgage " means a heritable security and " mortgagee " means a creditor in such a security;

" new town corporation " means a development corporation within the meaning of the New Towns (Scotland) Act 1968 ;

" shared ownership lease " has the same meaning as in subsection (1);

" trustee savings bank " has the same meaning as in subsection (1).

Final provisions

107 Short title, commencement and extent

(1) This Act may be cited as the Housing Associations' Act 1985.

(2) This Act comes into force on 1st April 1986.

(3) The following provisions of this Act apply to England and Wales only—
 section 2,
 section 4(3)(g),

section 8(2) and (3),
sections 11 and 12,
section 17(4),
section 18,
section 20,
section 31,
sections 34 to 36,
section 38,
sections 44 and 45,
section 52(1)(d) and (e), (3) and (4),
section 58,
section 67,
section 69(3),
section 81,
sections 84 and 85,
section 103,
section 105,
Schedules 2 and 3,
In Schedule 4, Part I,
In Schedule 5, Part I, paragraphs 1 and 2 of Part III and paragraph 1 of Part V.

(4) The following provisions of this Act apply to Scotland only—

section 59,
section 66,
section 68,
section 69(4),
section 86,
In Schedule 4, Part III,
In Schedule 5, Part II, paragraphs 3 and 4 of Part III, Part IV and Part VII.

(5) This Act does not extend to Northern Ireland.