



# Housing (Scotland) Act 1988

## 1988 CHAPTER 43

### PART I

#### SCOTTISH HOMES

##### *Establishment and functions*

#### **1 Scottish Homes.**

- (1) There shall be a body to be known as Scottish Homes.
- (2) Schedule 1 to this Act shall have effect with respect to the constitution and proceedings of and other matters relating to Scottish Homes.
- (3) Scottish Homes shall have the general functions of—
  - (a) providing, and assisting in the provision of, finance to persons or bodies intending to provide, improve, repair, maintain or manage housing;
  - (b) providing, improving, repairing, maintaining and managing housing (whether solely or in conjunction with any other person or body);
  - (c) promoting owner-occupation (especially by those seeking to purchase for the first time), the wider ownership of housing by its occupants and a greater choice of tenancy arrangements;
  - (d) promoting the provision and improvement of housing and the improvement of management of housing (whether by its occupants or otherwise);
  - (e) promoting and assisting the development of housing associations, maintaining a register of housing associations and exercising supervision and control over registered housing associations;
  - (f) undertaking, and assisting the undertaking of, the development, redevelopment and improvement of the physical, social, economic and recreational environment related to housing;
  - (g) such other general functions as are conferred upon Scottish Homes by or under this Act or any other enactment.

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## 2 General functions of Scottish Homes.

(1) Scottish Homes may do anything, whether in Scotland or elsewhere, which is calculated to facilitate or is incidental or conducive to the discharge of its general functions.

(2) Without prejudice to the generality of subsection (1) above and subject to subsection (3) [<sup>F1</sup>and (3A)] below Scottish Homes may—

- (a) make grants;
- (b) make loans;
- (c) acquire, hold and dispose of securities;
- (d) guarantee obligations (arising out of loans or otherwise) incurred by other persons, or grant indemnities;
- (e) provide or assist in the provision of advisory or other services or facilities for any person;
- (f) acquire land by agreement or gift;
- (g) acquire land (including servitudes or other rights in or over land by the creation of new rights) compulsorily;
- (h) hold and manage land and dispose of, or otherwise deal with, land held by it;
- (j) acquire and dispose of plant, machinery, equipment and other property;
- (k) develop land or carry out works on land, and maintain or assist in the maintenance of any such works;
- (l) make land, plant, machinery, equipment and other property available for use by other persons;
- (m) appoint other persons to act as its agents;
- (n) act as agents for other persons;
- (o) form companies within the meaning of the <sup>M1</sup>Companies Act 1985;
- (p) form partnerships with other persons;
- (q) promote, provide or assist in the provision of, training in matters relating to housing;
- (r) carry out, commission or assist in the provision of, research and development;
- (s) promote, or assist in the promotion of, publicity relating to its general functions and powers and to matters relating to housing;
- (t) make such charge as it thinks fit for any of its services;
- (u) accept any gift or grant made to it for the purposes of any of its general functions and powers and, subject to the terms of the gift or grant and to the provisions of this Act, apply it for those purposes;
- (v) turn its resources to account so far as they are not required for the exercise of any of its general functions and powers.

(3) The powers of Scottish Homes mentioned—

- (a) in subsection (2)(a) to (d), (m) and (o) above may be exercised only with the approval of the Secretary of State <sup>F2</sup>. . . or in accordance with a general authority given by him <sup>F2</sup>. . . ;
- (b) in subsection (2)(e) to (l) above [<sup>F3</sup>other than the power under paragraph (h) to dispose of land,] may be exercised only in accordance with arrangements made [<sup>F4</sup>between it and] the Secretary of State.

<sup>F5</sup>(3A) The power conferred by subsection (2)(h) above upon Scottish Homes to dispose of land may be exercised only with the consent of the Secretary of State (which consent

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may be given in relation to particular cases or classes of case and may be made subject to conditions).]

- (4) For the purpose of the acquisition of land by Scottish Homes by agreement—
- (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 <sup>M2</sup>Lands Clauses Consolidation (Scotland) Act 1845); and
  - (b) sections 6 and 70 to 78 of the <sup>M3</sup>Railway Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the <sup>M4</sup>Mines (Working Facilities and Support) Act 1923),
- shall be 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 Scottish Homes to be the promoters of the undertaking or company, as the case may require.
- (5) For the purpose of the acquisition of land by Scottish Homes compulsorily the <sup>M5</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply as if Scottish Homes were a local authority and as if this section were contained in an Act in force immediately before the commencement of that Act.
- (6) ..... <sup>F6</sup>
- (7) For the purposes of [<sup>F7</sup>section 195 of the Town and Country Planning (Scotland) Act 1997](general vesting declarations) Scottish Homes shall be deemed to be a public authority to which that section applies.
- (8) After section 239 of the <sup>M6</sup>Housing (Scotland) Act 1987 there shall be added the following section—

**“239A Power of Secretary of State to give directions to prevent duplications of grant.**

- (1) The Secretary of State may, so as to prevent the duplication of the making of grants under this Part in respect of the same works, give directions to—
    - (a) a local authority;
    - (b) local authorities generally; and
    - (c) Scottish Homes as to the circumstances in which they, or any of them, may or may not exercise their powers under this Part.
  - (2) It shall be the duty of Scottish Homes and of any local authority to whom directions have been given to comply with such directions.”.
- (9) After section 256 of the <sup>M7</sup>Housing (Scotland) Act 1987 there shall be added the following section—

**“256A Application of this Part to Scottish Homes.**

This Part (except sections 253 to 255) shall apply to Scottish Homes as it applies to a local authority.”.

- (10) The Secretary of State may give Scottish Homes directions of a general or specific character as to the exercise of its general functions and powers and it shall be the duty of Scottish Homes to comply with any such directions.

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- (11) Section 71 of the <sup>M8</sup>Race Relations Act 1976 (local authorities: general statutory duty) shall apply to Scottish Homes as it applies to a local authority.

#### Textual Amendments

- F1** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), **s. 179(a)**
- F2** Words in [s. 2\(3\)\(a\)](#) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 92(1)(2)**, Pt. IV (with art. 5)
- F3** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), **s. 179(b)(i)**
- F4** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), **s. 179(b)(ii)**
- F5** [S. 2\(3A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), **s.179(c)**
- F6** [S. 2\(6\)](#) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 179(d), 194(4), **Sch. 12 Pt. II**
- F7** Words in [s. 2\(7\)](#) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 42**

#### Marginal Citations

- M1** 1985 c. 6.
- M2** 1845 c. 19.
- M3** 1845 c. 33.
- M4** 1923 c. 20.
- M5** 1947 c. 42.
- M6** 1987 c. 26.
- M7** 1987 c. 26.
- M8** 1976 c. 74.

#### [<sup>F8</sup>2A Sale of Scottish Homes' loans portfolio.

- (1) Subject to subsection (2) below, Scottish Homes may enter into arrangements of a description approved by the Secretary of State for the purpose of realising the value of the whole or part of its loans portfolio.
- (2) Without prejudice to the power of the Secretary of State to give directions under section 2(10) above, the Secretary of State may direct Scottish Homes to enter into arrangements under this section and it shall be the duty of Scottish Homes to comply with any such direction.
- (3) The arrangements may provide for—
- (a) the transfer of any estate or interest of Scottish Homes, or
  - (b) the creation or disposal of economic interests not involving a transfer of an estate or interest,
- and may extend to such incidental or ancillary matters as Scottish Homes or the Secretary of State considers appropriate.
- (4) In this section, Scottish Homes' "loans portfolio" means Scottish Homes' rights and obligations in relation to any loans or related securities.
- (5) Nothing in the terms of any loan or related transaction entered into by Scottish Homes shall be construed as impliedly prohibiting or restricting it from dealing with its loans portfolio in accordance with arrangements under this section.
- (6) A direction given under subsection (2) above may be varied or revoked by a subsequent direction given by the Secretary of State.]

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### Textual Amendments

**F8** S. 2A inserted (1.8.1996) by 1996 c. 52, s. 55, Sch. 3 para. 9 (with s. 51(4)); S.I. 1996/2048, art. 2

## **3 Dissolution of SSHA and transfer of its property, rights, liabilities and obligations to Scottish Homes.**

- (1) The Scottish Special Housing Association shall be dissolved on such date as the Secretary of State may by order specify (the “specified date”) and all heritable or moveable property wherever situated held by the Scottish Special Housing Association immediately before the specified date shall, on that date, be transferred to and vest in Scottish Homes and all rights, liabilities and obligations of the Scottish Special Housing Association to which it was entitled or subject immediately before the specified date shall, on that date, be transferred to Scottish Homes.
- (2) For sub-paragraph (iv) of section 61(2)(a) of the Housing (Scotland) Act 1987 (secure tenant’s right to purchase from SSHA) there shall be substituted the following —  
“(iv) Scottish Homes”.
- (3) Schedule 2 to this Act has effect for the purpose of making other amendments to the enactments specified in that Schedule consequential upon the abolition of the Scottish Special Housing Association and the establishment of Scottish Homes and for connected purposes.
- (4) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

## **4 Regulation of housing associations in Scotland and transfer to Scottish Homes of certain property, rights, liabilities and obligations of Housing Corporation.**

- (1) Every housing association to which this subsection applies, that is to say, every housing association which immediately before the specified date—
  - (a) was registered in the register maintained under section 3(1) of the <sup>M9</sup>Housing Associations Act 1985 by the Housing Corporation; and
  - (b) was a society registered under the <sup>M10</sup>Industrial and Provident Societies Act 1965, and had its registered office for the purposes of that Act in Scotland,shall, on the specified date, cease to be registered in the register so maintained by the Housing Corporation and shall, as from that date, be registered by virtue of this subsection in the register maintained under section 3(1) of the Housing Associations Act 1985 by Scottish Homes.
- (2) The Secretary of State shall, not later than one month before the specified date, notify every housing association which appears to him to be one to which, on that date, subsection (1) above will apply of that fact and of the effect of that subsection.
- (3) As soon as may be after the specified date, Scottish Homes shall notify the assistant registrar of friendly societies for Scotland of every registration which has taken place by virtue of subsection (1) above.
- (4) ..... <sup>F9</sup>
- (5) All heritable or moveable property held in Scotland by the Housing Corporation immediately before the specified date shall, on that date, be transferred to and vest

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in Scottish Homes and all rights, liabilities and obligations relating to or arising in connection with—

- (a) the housing associations to which subsection (1) above applies, and
  - (b) land in Scotland held by unregistered housing associations,
- being rights, liabilities and obligations to which the Housing Corporation was entitled or subject immediately before the specified date shall, on that date, be transferred to Scottish Homes.
- (6) Any question as to whether any property, right, liability or obligation has been transferred to Scottish Homes under subsection (5) above shall be determined by the Secretary of State.
- (7) In this section, “specified date” has the same meaning as in section 3 above.

#### Textual Amendments

**F9** S. 4(4) repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), [Sch. 18](#)

#### Marginal Citations

**M9** 1985 c. 69.

**M10** 1965 c. 12.

### *Finance and administration*

#### **5 Determination of financial duties of Scottish Homes.**

- (1) The Secretary of State may <sup>F10</sup> . . . determine the financial duties of Scottish Homes, and different determinations may be made in relation to different general functions, powers and activities of Scottish Homes.
- (2) The Secretary of State shall give Scottish Homes notice of every determination, and a determination may—
- (a) relate to a period beginning before the date on which it is made;
  - (b) contain incidental or supplemental provisions; and
  - (c) be varied by a subsequent determination.

#### Textual Amendments

**F10** Words in s. 5(1) repealed (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, [Sch. 2 Pt. I para. 92\(1\)\(3\)](#), Pt. IV (with art. 5)

#### **6 Government grants to Scottish Homes.**

- (1) The Secretary of State may <sup>F11</sup> . . . make such grants to Scottish Homes as appear to him to be required to enable Scottish Homes to meet the expenses it incurs in the exercise of its general functions and powers.
- (2) A grant under subsection (1) above may be subject to such conditions as the Secretary of State may determine.

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### Textual Amendments

**F11** Words in s. 6(1) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 92(1)(4), Pt. IV (with art. 5)

## 7 Borrowing by and government loans to Scottish Homes.

- (1) For the purpose of the exercise of any of its general functions or powers Scottish Homes may borrow money from the Secretary of State and may, with the consent of the Secretary of State <sup>F12</sup> . . . , borrow money, whether in sterling or otherwise, from any other person or body, whether in the United Kingdom or elsewhere.
- (2) Scottish Homes may borrow money from any of its wholly owned subsidiaries without obtaining the consent of the Secretary of State.
- (3) It shall be the duty of Scottish Homes to secure that none of its wholly owned subsidiaries borrows money otherwise than from Scottish Homes or from another wholly owned subsidiary of Scottish Homes, except with the consent of the Secretary of State <sup>F13</sup> . . . .
- (4) The Secretary of State may lend to Scottish Homes any sums which Scottish Homes has power to borrow from him under subsection (1) above, for such purposes as the Secretary of State may specify and the Treasury may issue to the Secretary of State out of the National Loans Fund any sums necessary to enable the Secretary of State to make loans in pursuance of this subsection.
- (5) Any loans made in pursuance of subsection (4) above shall be repaid to the Secretary of State at such times and by such methods, and interest on the loans shall be paid to him at such times and at such rates, as he may from time to time direct; and all sums received by the Secretary of State in pursuance of this subsection shall be paid into the National Loans Fund.
- (6) The Secretary of State shall prepare in respect of each financial year an account of the sums issued to him in pursuance of subsection (4) above and the sums received by him in pursuance of subsection (5) above and of the disposal by him of those sums, and shall send the account to the Comptroller and Auditor General before the end of the month of November next following the end of that year; and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it and of his report before each House of Parliament.

<sup>F14</sup>(7) . . . . .

- (8) In this section and in sections 8, 10 and 11 below, “financial year” means the period beginning with the commencement of this section and ending with 31st March of the calendar year next following such commencement and each subsequent period of 12 months ending with 31st March.

### Textual Amendments

**F12** Words in s. 7(1) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 92(1)(5)(a), Pt. IV (with art. 5)

**F13** Words in s. 7(3) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 92(1)(5)(b), Pt. IV (with art. 5)

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**F14** S. 7(7) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2)(3), 4, Sch. 2 Pt. I para. 92(1)(5)(c), Pt. IV (with art. 5)

## 8 Guarantees.

- (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 any sums which Scottish Homes borrows from a person other than the Secretary of State.
- (2) Immediately after a guarantee is given under this section, the Treasury shall lay a statement of the guarantee before each House of Parliament; and where any sum is issued for fulfilling a guarantee so given, the Treasury shall lay before each House of Parliament a statement relating to that sum, 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.
- (3) Any sums required by the Treasury for fulfilling a guarantee under this section shall be charged on and issued out of the Consolidated Fund.
- (4) If any sums are issued in fulfilment of a guarantee given under this section, Scottish Homes shall make to the Treasury, at such time and in such manner as the Treasury from time to time direct, payments of such amounts as the Treasury so direct in or towards repayment of the sums so issued and 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) Any sums received by the Treasury in pursuance of subsection (4) above shall be paid into the Consolidated Fund.

## 9 Limit on borrowing etc.

- (1) The aggregate amount outstanding by way of principal of—
  - (a) money borrowed by Scottish Homes under section 7(1) above;
  - (b) money borrowed by wholly owned subsidiaries of Scottish Homes with the consent of the Secretary of State<sup>F15</sup> . . . under section 7(3) above;
  - (c) money borrowed by the Scottish Special Housing Association or the Housing Corporation the repayment of which is a liability or obligation transferred to Scottish Homes under section 3(1) or 4(5) above;
  - (d) sums issued by the Treasury in fulfilment of guarantees under section 8 above, shall not exceed £1,000 million or such greater sum not exceeding £1,500 million as the Secretary of State may specify by order<sup>F16</sup> . . .
- (2) An order under subsection (1) above 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.
- (3) In ascertaining the limit imposed by subsection (1) above, interest payable on a loan made by the Secretary of State to Scottish Homes which<sup>F17</sup> . . . is deferred and treated as part of the loan shall, so far as outstanding, be treated as outstanding by way of principal.



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#### Textual Amendments

- F15** Words in s. 9(1)(b) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 92(6)(b)**, Pt. IV (with art. 5)
- F16** Words in s. 9(1) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 92(6)(a)**, Pt. IV (with art. 5)
- F17** Words in s. 9(3) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 92(6)(c)**, Pt. IV (with art. 5)

### 10 Miscellaneous financial directions.

- (1) If for a financial year the revenues of Scottish Homes exceed the total sums properly chargeable to revenue account, it shall apply the excess in such manner as the Secretary of State may, after consultation with Scottish Homes direct; and the Secretary of State may direct that the whole or part of the excess be paid to him.
- (2) The Secretary of State may give directions to Scottish Homes 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 functions of Scottish Homes.
- (3) The Secretary of State may direct Scottish Homes to pay to him the whole or part of any sums for the time being standing to the credit of its reserves or being of a capital nature and not required for the exercise of its functions.

<sup>F18</sup>(4) . . . . .

- (5) It shall be the duty of Scottish Homes to comply with directions under this section.

#### Textual Amendments

- F18** S. 10(4) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 92(1)(7)**, Pt. IV (with art. 5)

### 11 Accounts, annual report of Scottish Homes, etc.

- (1) Scottish Homes shall keep proper accounts and other records in relation to the accounts and shall prepare in respect of each of its financial years a statement of account in such form as the Secretary of State may <sup>F19</sup> . . . determine.
- (2) The statement of account prepared by Scottish Homes for each financial year shall be submitted to the Secretary of State at such time as he may direct.
- (3) The Secretary of State shall, on or before the end of the month of August in any year, transmit to the Comptroller and Auditor General the statement of account prepared by Scottish Homes under this section for the financial year last ended.
- (4) The Comptroller and Auditor General shall examine and certify the statement of account transmitted to him under this section and lay before Parliament copies of the statement of account together with his report thereon.

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- (5) Scottish Homes shall provide the Secretary of State with such information relating to its general functions, powers, activities and proposed activities as he may from time to time require, and for that purpose shall permit any person authorised in that behalf by the Secretary of State or the Comptroller and Auditor General to inspect and make copies of its accounts, books, documents or papers, and shall afford to that person such explanation thereof as he may reasonably require.
- (6) It shall be the duty of Scottish Homes to make to the Secretary of State, as soon as possible after the end of each financial year, a report dealing with the activities of Scottish Homes during that year.
- (7) It shall be the duty of the Secretary of State to lay before each House of Parliament a copy of each report received by him under subsection (6) above.

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**Textual Amendments**

**F19** Words in s. 11(1) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 92(1)(8)**, Pt. IV (with art. 5)

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