



# Housing Act 1988

## 1988 CHAPTER 50

### PART II

#### HOUSING ASSOCIATIONS

##### *Grants: functions of Secretary of State*

#### 54 Tax relief grants. **E+W**

- (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—
  - (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 at any time if, at that time—
  - (a) it is [<sup>F1</sup>a registered social landlord];
  - (b) it does not trade for profit; and
  - (c) it is not approved for the purposes of section 488 of the <sup>M1</sup>Income and Corporation Taxes Act 1988 (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—

*Status: Point in time view as at 01/11/1998.*

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- (a) in a case falling within subsection (1)(a) above, 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) above, 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—
- (a) in the event of tax in respect of which it was made being found not to be chargeable; or
  - (b) in such other events (including the association 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 grant or repayment.
- (8) In this section “letting” includes—
- (a) in England and Wales, the grant of a shared ownership lease or a licence to occupy;
  - (b) in Scotland, disposal under a shared ownership agreement or the grant of a right or permission to occupy.

#### Extent Information

**E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

**F1** Words in s. 54(2) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(7)**

#### Modifications etc. (not altering text)

**C1** Ss. 50-55 amended (1.4.1997) by 1996 c. 52, **ss. 28(6), 231(4)(b)** (with s. 51(4)); S.I. 1997/618, **art. 2** (subject to transitional provisions and savings in Sch.)

#### Marginal Citations

**M1** 1988 c. 1.

## 54 Tax relief grants. **S**

- (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 at any time if, at that time—
  - (a) it is registered;
  - (b) it does not trade for profit; and
  - (c) it is not approved for the purposes of section 488 of the <sup>M3</sup>Income and Corporation Taxes Act 1988 (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) above, 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) above, 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—
  - (a) in the event of tax in respect of which it was made being found not to be chargeable; or
  - (b) in such other events (including the association 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 grant or repayment.
- (8) In this section “letting” includes—
  - (a) in England and Wales, the grant of a shared ownership lease or a licence to occupy;
  - (b) in Scotland, disposal under a shared ownership agreement or the grant of a right or permission to occupy.

#### **Extent Information**

**E3** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

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### Marginal Citations

M3 1988 c. 1.

## 55 Surplus rental income. **E+W**

- (1) An association to which this section applies, that is to say, a [<sup>F2</sup>registered social landlord] which has at any time received a payment in respect of—
  - <sup>F3</sup>(a) .....
  - (b) a grant under section 41 of the 1985 Act or any enactment replaced by that section, or
  - (c) a grant under section 2(2) of the <sup>M2</sup>Housing (Scotland) Act 1988, (in this section referred to as a “relevant grant”) shall show separately in its accounts for any period ending after the coming into force of this section the surpluses arising from increased rental income during that period from such housing activities to which the grant relates as the Secretary of State may from time to time determine.
- (2) The surpluses shall be shown by each association in a fund to be known as its rent surplus fund; and the method of constituting that fund and of showing it in the association’s accounts shall be as required by [<sup>F4</sup>a determination of the [<sup>F5</sup>Relevant Authority] under paragraph 16(1) of Schedule 1 to the Housing Act 1996.]
- (3) The surpluses in respect of a period shall be calculated in such manner as the Secretary of State may from time to time determine; and a determination under this subsection may provide that, in calculating surpluses, an association shall act on such assumptions (whether or not borne out or likely to be borne out by events) as may be specified in the determination.
- (4) A determination under subsection (1) or (3) above may—
  - (a) make the same provision for all cases; or
  - (b) make different provision for different cases or descriptions of cases, including different provision for different areas or for different descriptions of housing associations or housing activities;
 and for the purposes of this subsection descriptions may be framed by reference to any matters whatever, including in particular, in the case of housing activities, the manner in which they are financed.
- (5) Before making a determination under subsection (1) or (3) above, the Secretary of State shall consult such bodies appearing to him to be representative of housing associations as he considers appropriate; and after making such a determination, the Secretary of State shall publish it in such manner as he considers appropriate for bringing it to the notice of the associations concerned.
- (6) The Secretary of State may from time to time give notice to an association to which this section applies requiring it to pay to him, with interest if demanded, or to apply or appropriate for purposes he specifies, any sums standing in its rent surplus fund at the end of a period of account.
- (7) Any interest demanded by such a notice is payable—
  - (a) at the rate or rates (whether fixed or variable) 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,

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- at the rate or rates (whether fixed or variable) specified with the consent of the Treasury in the notice; and
- (b) either from the date of the notice or from such other date, not earlier than the end of the period of account, as may be specified in the notice.
- (8) A notice under subsection (6) above demanding interest may with the consent of the Treasury provide that, if the sums required by the notice to be paid to the Secretary of State are paid before a date specified in the notice—
- (a) no interest shall be payable for any period after the date of the notice; and
- (b) any interest payable shall be payable at a rate or rates lower than the rate or rates given by subsection (7) above.
- (9) The Secretary of State may from time to time give notice—
- (a) to all associations to which this section applies,
- (b) to associations to which this section applies of a particular description, or
- (c) to particular associations to which this section applies,
- requiring them to furnish him with such information as he may reasonably require in connection with the exercise of his functions under this section; and a notice under paragraph (a) or (b) above may be given by publication in such manner as the Secretary of State considers appropriate for bringing it to the attention of the associations concerned.
- (10) Where—
- (a) an association has received a payment in respect of a relevant grant, and
- (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, some other [<sup>F6</sup>housing association which is a registered social landlord], or trustees for some other such association,
- this section (including this subsection) shall have effect in relation to periods after that time as if the payment, or such proportion of it as may be determined by the Secretary of State to be appropriate, had been made to that other association.

#### Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F2** Words in s. 55(1) substituted (E.W.) (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(8)(a)**
- F3** S. 55(1)(a) repealed (1.10.1996) by 1996 c. 52, s. 227, Sch. 19 Pt. I and s. 55(1)(a) expressed to be omitted (1.4.1997) by virtue of 1996 c. 52, **ss. 28(5), 251(4)(b)** (with s. 51(4)); S.I. 1996/2402, **art. 3**; S.I. 1997/618, **art. 2**
- F4** Words in s. 55(2) substituted (1.10.1996 with application as mentioned in art. 5(2) of the amending S.I.) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(8)(b)**
- F5** Words in s. 55(2) substituted (E.W.) (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 61** (with **ss. 139(2), 141(1), 143(2)**); S.I. 1998/2244, **art. 5**
- F6** Words in s. 55(10)(b) substituted (E.W.) (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(c)**

#### Modifications etc. (not altering text)

- C2** **Ss. 50-55** amended (1.4.1997) by 1996 c. 52, **ss. 28(6), 251(4)(b)** (with s. 51(4)); S.I. 1997/618, **art. 2** (subject to transitional provisions and savings in **Sch.**)

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### Marginal Citations

M2 1988 c. 43

## 55 Surplus rental income. **S**

- (1) An association to which this section applies, that is to say, a registered housing association which has at any time received a payment in respect of—
  - (a) a grant under section 50 above, or
  - (b) a grant under section 41 of the 1985 Act or any enactment replaced by that section, or
  - (c) a grant under section 2(2) of the <sup>M4</sup>Housing (Scotland) Act 1988, (in this section referred to as a “relevant grant”) shall show separately in its accounts for any period ending after the coming into force of this section the surpluses arising from increased rental income during that period from such housing activities to which the grant relates as the Secretary of State may from time to time determine.
- (2) The surpluses shall be shown by each association in a fund to be known as its rent surplus fund; and the method of constituting that fund and of showing it in the association’s accounts shall be as required by order of the Secretary of State under section 24 of the 1985 Act (general requirements as to accounts) and, notwithstanding anything in subsection (5) of that section, such an order may make provision applying to any period to which this section applies.
- (3) The surpluses in respect of a period shall be calculated in such manner as the Secretary of State may from time to time determine; and a determination under this subsection may provide that, in calculating surpluses, an association shall act on such assumptions (whether or not borne out or likely to be borne out by events) as may be specified in the determination.
- (4) A determination under subsection (1) or (3) above may—
  - (a) make the same provision for all cases; or
  - (b) make different provision for different cases or descriptions of cases, including different provision for different areas or for different descriptions of housing associations or housing activities;
 and for the purposes of this subsection descriptions may be framed by reference to any matters whatever, including in particular, in the case of housing activities, the manner in which they are financed.
- (5) Before making a determination under subsection (1) or (3) above, the Secretary of State shall consult such bodies appearing to him to be representative of housing associations as he considers appropriate; and after making such a determination, the Secretary of State shall publish it in such manner as he considers appropriate for bringing it to the notice of the associations concerned.
- (6) The Secretary of State may from time to time give notice to an association to which this section applies requiring it to pay to him, with interest if demanded, or to apply or appropriate for purposes he specifies, any sums standing in its rent surplus fund at the end of a period of account.
- (7) Any interest demanded by such a notice is payable—
  - (a) at the rate or rates (whether fixed or variable) previously determined by the Secretary of State, with the consent of the Treasury, for housing associations

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- generally and published by him or, if no such determination has been made, at the rate or rates (whether fixed or variable) specified with the consent of the Treasury in the notice; and
- (b) either from the date of the notice or from such other date, not earlier than the end of the period of account, as may be specified in the notice.
- (8) A notice under subsection (6) above demanding interest may with the consent of the Treasury provide that, if the sums required by the notice to be paid to the Secretary of State are paid before a date specified in the notice—
- (a) no interest shall be payable for any period after the date of the notice; and
- (b) any interest payable shall be payable at a rate or rates lower than the rate or rates given by subsection (7) above.
- (9) The Secretary of State may from time to time give notice—
- (a) to all associations to which this section applies,
- (b) to associations to which this section applies of a particular description, or
- (c) to particular associations to which this section applies,
- requiring them to furnish him with such information as he may reasonably require in connection with the exercise of his functions under this section; and a notice under paragraph (a) or (b) above may be given by publication in such manner as the Secretary of State considers appropriate for bringing it to the attention of the associations concerned.
- (10) Where—
- (a) an association has received a payment in respect of a relevant grant, and
- (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, some other registered housing association, or trustees for some other such association,
- this section (including this subsection) shall have effect in relation to periods after that time as if the payment, or such proportion of it as may be determined by the Secretary of State to be appropriate, had been made to that other association.

#### **Extent Information**

- E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### **Marginal Citations**

- M4** 1988 c. 43.

**Status:**

Point in time view as at 01/11/1998.

**Changes to legislation:**

Housing Act 1988, Cross Heading: Grants: functions of Secretary of State is up to date with all changes known to be in force on or before 29 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.