



# Housing Act 1974

## 1974 CHAPTER 44

### PART I

#### THE HOUSING CORPORATION: EXTENDED FUNCTIONS

#### **1 Continuation of Housing Corporation with extended functions**

- (1) There shall continue to be an authority called the Housing Corporation and the provisions of Schedule 1 to the 1964 Act (constitution, proceedings and other matters relating to the Corporation) as amended by Schedule 1 to this Act shall continue to apply in relation to the Corporation.
- (2) Without prejudice to any specific function conferred on the Corporation by or under the following provisions of this Act or any other enactment, the Corporation shall have the following general functions, namely,—
  - (a) to promote and assist the development of registered housing associations and of unregistered self-build societies;
  - (b) to facilitate the proper exercise and performance of the functions, and to publicise the aims and principles, of registered housing associations and unregistered self-build societies;
  - (c) to establish and maintain a register of housing associations, to exercise supervision and control over registered housing associations and, to such extent as the Secretary of State may require, to act as his agent with respect to the consideration of applications for and the payment of grants to registered housing associations; and
  - (d) to undertake, to such extent as the Corporation consider 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 provided by the Corporation.
- (3) The Corporation shall exercise their general functions subject to and in accordance with the provisions of this Part of this Act and Parts II and III thereof.

## **2 Control by Corporation of dispositions of land by housing associations**

- (1) Subject to the following provisions of this section,—
- (a) a registered housing association may not sell, lease, mortgage, charge or otherwise dispose of any land, and
  - (b) an unregistered housing association may not sell, lease, mortgage, charge or otherwise dispose of any grant-aided land, as defined in Schedule 2 to this Act, except with the consent of the Corporation.
- (2) Subsection (1) above shall not apply to a disposition by a housing association which is a registered charity if—
- (a) the disposition is one which, by virtue of subsection (1) or subsection (2) of section 29 of the Charities Act 1960 (certain disposals not to take place without an order of the court or of the Charity Commissioners), cannot be made without such an order as is mentioned in that section; or
  - (b) the disposition is of land which is not grant-aided land, as defined in Schedule 2 to this Act, and is one for which the sanction of an order under the said section 29 is not required by virtue of subsection (3) thereof (certain dispositions excluded from the requirements of that section).
- (3) The Charity Commissioners shall consult the Corporation before making any order under section 29 of the Charities Act 1960 permitting a disposition which, apart from subsection (2) above, would be a disposition requiring the consent of the Corporation.
- (4) Subsection (1) above shall not apply to the grant of a lease for a term ending within the period of 7 years and 3 months beginning on the date of the grant unless—
- (a) there is conferred on the lessee (whether 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.
- (5) Without prejudice to the generality of the expression "dispose" in subsection (1) above, in subsection (4) above the expression "lease" includes an agreement for a lease and a licence to occupy and the expressions "grant" and "term" shall be construed accordingly.
- (6) Any reference in this section to the consent of the Corporation is a reference to an order under the seal of the Corporation giving their consent.

## **3 Acquisition of land**

- (1) The Corporation may acquire land, whether by way of purchase, lease, exchange or gift—
- (a) for the purpose of selling or leasing it to a registered housing association or an unregistered self-build society; or
  - (b) for the purpose of their general functions under section 1(2)(d) above.
- (2) For the purpose of the purchase of land in Scotland by agreement by the Corporation, the Lands Clauses Acts (except so much thereof as relates to the acquisition of land otherwise than by agreement, and the provisions relating to access to the special Act, and except sections 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845), and section 6 and sections 70 to 78 of the Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the

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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.

- (3) The Corporation may be authorised by the Secretary of State to purchase land compulsorily for any purpose for which they could acquire it by agreement under subsection (1) above.
- (4) The Acquisition of Land (Authorisation Procedure) Act 1946 or, as the case may be, the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to a compulsory purchase of land by the Corporation under subsection (3) above as if the Corporation were a local authority and as if that subsection were contained in an Act in force immediately before the commencement of that Act.
- (5) In Scotland the Corporation (without prejudice to their own power to acquire land compulsorily) may request the Scottish Special Housing Association to acquire land compulsorily on their behalf for any purpose for which the Corporation may purchase land compulsorily as provided in section 175(2) of the Housing (Scotland) Act 1966.
- (6) The powers of acquisition conferred by this section may be exercised as respects any land notwithstanding that it is not immediately required for selling or leasing as mentioned in subsection (1)(a) above or for the purpose of any of the Corporation's general functions under section 1(2)(d) above.

#### **4 Provision of dwellings or hostels and clearance, management and development of land**

- (1) The Corporation may undertake the provision or improvement of dwellings or hostels on any land belonging to them
- (2) The Corporation may clear any land belonging to them and carry out any other work on the land to prepare it as a building site or estate, including the laying out and construction of streets or roads and open spaces and the provision of sewerage facilities and supplies of electricity, gas and water.
- (3) The Corporation shall have power to repair, maintain and insure any buildings or works for the time being on any land belonging to them and generally to deal in the proper course of management with any such land and any such buildings or works and to charge for the tenancy or occupation thereof.
- (4) Without prejudice to subsection (3) above, the Corporation may carry out such operations on, and do any other such things in relation to, land belonging to them as appear to them to be conducive to facilitating the provision or improvement of dwellings or hostels on the land, whether by the Corporation themselves, by a registered housing association or by an unregistered self-build society.
- (5) In the exercise of their powers under subsection (4) above, 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 any building or land intended for use for commercial, recreational or other non-domestic purposes.

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## **5 Disposal of land**

- (1) The Corporation may not dispose of any land except in accordance with the provisions of this section.
- (2) The Corporation may dispose of any land in respect of which they have not exercised their powers under subsection (1) of section 4 above and on which they have not carried out any such development as is mentioned in subsection (5) of that section to—
  - (a) a registered housing association ; or
  - (b) an unregistered self-build society ; or
  - (c) a subsidiary of the Corporation; or
  - (d) any other body in which the Corporation hold an interest.
- (3) The Corporation may dispose of any land on which dwellings or hostels have been provided or improved in exercise of their powers under section 4 above to—
  - (a) a registered housing association, or
  - (b) the council of a county, district or London borough, the Greater London Council or the Common Council of the City of London, or
  - (c) a housing authority as defined in section 78(1) of the Housing (Financial Provisions) (Scotland) Act 1972, or
  - (d) the Commission for the New Towns or a development corporation within the meaning of the New Towns Act 1965, or
  - (e) a subsidiary of the Corporation,and may sell or lease individual dwellings to persons for their own occupation.
- (4) The Corporation may dispose of any 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 4(5) above ; but no such building or land may be disposed of for less than the best consideration it commands except with the consent in writing of the Secretary of State.
- (5) The Corporation may dispose of any land which is not required for the purposes for which it was acquired but, subject to subsection (6) below, if the land—
  - (a) was acquired compulsorily by, or on behalf of, the Corporation or by a local authority who transferred the land to the Corporation, or
  - (b) is not disposed of for the best consideration it commands,the Corporation shall not dispose of the land except with the consent in writing of the Secretary of State.
- (6) The consent of the Secretary of State shall not be required under subsection (5) above to the disposal of land for less than the best consideration it commands if the land is to be used as, or in connection with, a highway or a street not being a highway.
- (7) For the purposes of subsection (5) above " local authority ", in relation to England and Wales, means—
  - (a) the council of a district or, in the case of an acquisition before 1st April 1974, the council of a county borough or county district; and
  - (b) the council of a London borough or the Common Council of the City of London.

## **6 Acquisition of securities and control of subsidiaries**

- (1) The Corporation may with the consent of the Secretary of State subscribe for or acquire any securities of a body corporate and promote or participate in the promotion of any such body.
- (2) The Corporation shall exercise their control over any subsidiary of theirs so as to secure that the subsidiary does not—
  - (a) engage in any activity which the Corporation are not empowered to carry on ;
  - (b) engage in any activity in a manner in which the Corporation themselves could not engage, by reason of any direction given to the Corporation under section 1(2) of the 1964 Act;
  - (c) except with the consent of the Secretary of State, borrow money from any person other than the Corporation; or
  - (d) except with the consent of the Secretary of State, raise money by the issue of shares or stock to any person other than the Corporation.
- (3) In this section " securities " means shares, stock, debentures, debenture stock and any securities of a like nature.

## **7 Borrowing powers**

- (1) Subject to subsection (9) below, the borrowing powers of the Corporation shall be those, and only those, conferred by subsections (2) to (4) below; and the powers conferred by those subsections are subject to subsection (5) below.
- (2) 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.
- (3) Without prejudice to subsection (2) above, 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.
- (4) The Corporation may, with the consent of the Secretary of State, borrow on such terms as the Secretary of State may from time to time specify,—
  - (a) from such persons as he may so specify, sums in a currency other than sterling ;  
and
  - (b) from the European Investment Bank or the Commission of the European Communities, sums in any currency.
- (5) The aggregate amount outstanding by way of the principal of—
  - (a) advances made to the Corporation under section 9 of the 1964 Act before the day appointed for the coming into operation of this Part of this Act,
  - (b) advances made to housing associations, before the day appointed for the coming into force of section 34 of this Act, under section 7 of the Housing Act 1961, section 11 of the Housing (Scotland) Act 1962 and section 23 of the Housing (Financial Provisions) (Scotland) Act 1968 (being advances in respect of which the functions of the Secretary of State are by the said section 34 transferred to the Corporation),
  - (c) any money borrowed by the Corporation under this section, and

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(d) any money borrowed by a subsidiary of the Corporation, otherwise than from the Corporation,

shall not exceed £400 million or such greater sum not exceeding £750 million as the Secretary of State may by order specify, and no such order shall be made unless a draft of it has been laid before and approved by the Commons House of Parliament.

- (6) Any loan made by the Secretary of State in pursuance of this section 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.
- (7) References in the preceding provisions of this section to the Secretary of State are references to him acting with the approval of the Treasury.
- (8) The Treasury may issue out of the National Loans Fund to the Secretary of State such sums as are necessary to enable him to make loans in pursuance of subsection (2) above and any sums received by the Secretary of State in pursuance of subsection (6) above shall be paid into that Fund.
- (9) References in this section to borrowing do not include any borrowing from a subsidiary of the Corporation.

## **8 Treasury 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 the Corporation borrow 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 the guarantee so given 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 thereon is finally discharged), lay before each House of Parliament a statement relating to that sum.
- (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, the Corporation shall make to the Treasury, at such times and in such manner as the Treasury may 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 Lending powers**

- (1) The Corporation may, by way of temporary loan or otherwise, lend to—
  - (a) a registered housing association,
  - (b) an unregistered self-build society,
  - (c) a subsidiary of the Corporation, and

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- (d) any other body in which the Corporation hold an interest,  
for the purpose of enabling any of those bodies to meet the whole or any part of any expenditure incurred or to be incurred by it in carrying out its objects.
- (2) The Corporation may, by way of temporary loan or otherwise, lend to an individual for the purpose of assisting him to acquire from the Corporation or from any of the bodies specified in paragraphs (a) to (d) of subsection (1) above a legal estate or interest in a dwelling which he intends to occupy.
- (3) Any directions given to the Corporation under section 1(2) of the 1964 Act with respect to the terms of any loan made under subsection (1) or subsection (2) above shall require the consent of the Treasury and, subject to any such directions and to subsection (4) below, the terms on which any such loan is made shall be such as the Corporation may determine, either generally or in any particular case.
- (4) The terms of any loan made under subsection (1) above may, and the terms of any loan made under subsection (2) above may not, include terms for preventing repayment of the loan or any part of it before a specified date without the consent of the Corporation.
- (5) In any case where—
- (a) the Corporation make a loan to an unregistered self-build society under subsection (1)(b) above, and
  - (b) under a mortgage or heritable security entered into by the society to secure the loan the Corporation have an interest as mortgagee or, as the case may be, as creditor in any land belonging to the society,
- the Corporation may, with the written consent of the Secretary of State, give to the society directions with respect to the disposal of that land, and it shall be the duty of the society to comply with the directions so long as the Corporation continue to have such an interest in that land; and any directions given under this subsection with such consent may be varied or revoked by subsequent directions given thereunder with the like consent.
- (6) Where the Corporation propose, under subsection (5) above, to give directions to an unregistered self-build society requiring it to transfer its interest in any land to the Corporation or any other person, the Secretary of State shall not consent to the giving of the directions unless he is satisfied that arrangements have been made which, if the directions are given, will secure that the members of the society receive fair treatment in connection with the transfer.

## **10 Miscellaneous financial provisions**

- (1) With the consent of the Secretary of State, given with the approval of the Treasury, the Corporation may guarantee the repayment of the principal of and the payment of interest on any sums borrowed (otherwise than from the Corporation)—
- (a) by registered housing associations,
  - (b) by unregistered self-build societies, and
  - (c) by other bodies in which the Corporation hold an interest,
- and in any case where the Corporation give a guarantee under this subsection they may impose such terms and conditions as they think fit.
- (2) The aggregate amount outstanding in respect of—
- (a) loans for which the Corporation have given a guarantee under subsection (1) above, and

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- (b) any payments which have been made by the Corporation in meeting any obligation arising by virtue of such a guarantee and have not been repaid to the Corporation,  
shall not exceed £100 million.
- (3) The Corporation may turn their resources to account so far as they are not required for the exercise of the Corporation's functions.
- (4) Any excess of the revenues of the Corporation for any accounting year over the total sums properly chargeable to revenue account for that year shall be applied by the Corporation in such manner as the Secretary of State may, after consultation with the Corporation and with the approval of the Treasury, direct; and such a direction may require the whole or part of the excess to be paid to the Secretary of State.
- (5) The Secretary of State may, with the approval of the Treasury, give to the Corporation directions as to any matter relating to the establishment or management of reserves or the carrying of sums to the credit of any reserves or the application of any reserves for the purposes of the Corporation's functions.
- (6) The Secretary of State may, with the approval of the Treasury and after consultation with the Corporation, direct the Corporation to pay to the Secretary of State the whole or part of any sums for the time being standing to the credit of any reserves of the Corporation or being of a capital nature and not required for the exercise of the Corporation's functions.

## 11 Exclusion of certain disposals of land from tax on chargeable gains

After section 342 of the Income and Corporation Taxes Act 1970 there shall be inserted the following section:—

### **“342A Disposals by Housing Corporation and certain housing associations.**

- (1) In any case where—
- (a) the Housing Corporation dispose of any land to a registered housing association, or
  - (b) a registered housing association disposes of any land to another registered housing association, or
  - (c) in pursuance of a direction of the Housing Corporation given under Part II of the Housing Act 1974 requiring it to do so, a registered housing association disposes of any of its property, other than land, to another registered housing association, or
  - (d) a registered housing association or an unregistered self-build society disposes of any land to the Housing Corporation,

both parties to the disposal shall be treated for the purposes of corporation tax in respect of chargeable gains or, as the case may require, capital gains tax as if the land or property disposed of were acquired from the Housing Corporation, registered housing association or unregistered self-build society making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss accrued to the Corporation or, as the case may be, that association or society.



(2) In this section 'registered housing association' and 'unregistered self-build society' have the same meanings as in Part I of the Housing Act 1974”.

## **12 Interpretation of Part I**

In this Part of this Act—

" heritable security " means a heritable security within the meaning of section 9(8)(a) of the Conveyancing and Feudal Reform (Scotland) Act 1970;

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

" land " includes any estate or interest in or right over land;

" 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 and " unregistered self-build society " means a self-build society which is not a registered housing association ;

" subsidiary " has the same meaning as in the Companies Act 1948; and

" the 1964 Act " means the Housing Act 1964.