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STATUTORY INSTRUMENTS

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**1994 No. 2895**

**The Housing Associations (Permissible Additional Purposes) (England and Wales) Order 1994**

**Amendment of section 4 of the Housing Associations Act 1985**

2.—(1) Section 4 of the Housing Associations Act 1985<sup>(1)</sup> (eligibility of housing associations for registration) shall be amended in accordance with the following provisions of this article.

(2) At the end of subsection (3) (which specifies permissible additional purposes or objects of housing associations) there shall be added—

- “(g) in England and Wales, enabling or assisting any residents of theirs—
- (i) to acquire, or to acquire and enter into occupation of, houses (other than houses held by or for the association), or
  - (ii) to procure the construction, on land belonging to other persons, of separate dwellings for occupation by those residents (whether alone or with other persons), or to procure such construction and enter into occupation of the dwellings so constructed,

by providing grants to or for such residents or, in a case falling within sub-paragraph (i) above, by entering into assured percentage arrangements with such residents (or partly in the one way and partly in the other).”

(3) In subsection (5) (definitions), after the definition of “acquisition right” there shall be inserted—

““assured percentage arrangements” means arrangements pursuant to which—

- (a) a housing association provides a sum (the “initial capital sum”) to a person who, at the time when the association offers to provide that sum, is a resident of theirs (the “participating resident”) for the purpose of enabling or assisting him to acquire a legal estate in a house (other than a house held at that time by or for the association);
- (b) the participating resident, in consideration for the provision of the initial capital sum, enters into an assured percentage covenant with the association; and
- (c) the liability to make any payment required by the assured percentage covenant is secured by a mortgage;

“assured percentage covenant” means a covenant requiring the participating resident in the case of the assured percentage arrangements in question to make to the association at a date (the “discharge date”) determined in accordance with the covenant a payment (the “discharge payment”) calculated by reference to the product of—

- (a) the difference between—
  - (i) the initial capital sum, expressed as a percentage of the initial value of the house, and
  - (ii) the aggregate of the interim payment percentages (if any), and

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<sup>(1)</sup> 1985 c. 69; this section was amended by the Housing Act 1988 (c. 50), section 48(1).

(b) the final value of the house,

“interim payment percentage” meaning, for the purposes of paragraph (a)(ii) above, the amount of any payment accepted by the association before the discharge date, in diminution of the liability to make the discharge payment and in accordance with the terms of the instrument containing the covenant, expressed as a percentage of the proper value of the estate in question as at the time of that acceptance;”.

(4) In that subsection, for paragraph (a) of the definition of “disposed of on shared ownership terms” there shall be substituted—

“(a) in England and Wales, disposed of—

(i) on a shared ownership lease, or

(ii) pursuant to equity percentage arrangements;”.

(5) After that definition there shall be inserted—

““equity percentage arrangements” means arrangements pursuant to which—

(a) a housing association conveys a legal estate in a house to an individual (the “relevant purchaser”);

(b) the relevant purchaser, in consideration for that conveyance—

(i) makes to the association a payment (the “initial payment”) expressed to represent a percentage of the initial value of the house; and

(ii) enters into an equity percentage covenant with the association; and

(c) the liability to make any payment required by the equity percentage covenant is secured by a mortgage;

“equity percentage covenant” means a covenant requiring the relevant purchaser in the case of the equity percentage arrangements in question to make to the association at a date (the “discharge date”) determined in accordance with the covenant a capital payment (the “discharge payment”) determined by reference to that percentage (if any) of the final value of the house which remains after reducing 100 per cent. by the sum of the following percentages, that is to say—

(a) the percentage of the initial value of the house which the initial payment made pursuant to the equity percentage arrangements in question was expressed to represent, and

(b) the aggregate of the interim payment percentages (if any),

“interim payment percentage” meaning, for the purposes of paragraph (b) above, the amount of any payment accepted by the association before the discharge date, in diminution of the liability to make the discharge payment and in accordance with the terms of the instrument containing the covenant, expressed as a percentage of the proper value of the estate in question as at the time of that acceptance

“the final value” of a house, in the case of an assured percentage covenant or equity percentage covenant, means the proper value of the estate in question at the time at which the discharge payment required by the covenant falls to be made

“the initial value” of a house means—

(a) in the case of assured percentage arrangements, the price required to be paid to or at the direction of the vendor for the conveyance of the estate in question to the participating resident; or

(b) in the case of equity percentage arrangements, an amount agreed between the relevant purchaser and the housing association, before the conveyance of the estate in question to the relevant purchaser, as being the price for which the estate would have been conveyed

at that time, with vacant possession, in an arm's length transaction between a willing buyer and a willing seller on the open market;”.

(6) In that subsection, after the definition of “letting” there shall be inserted—

““proper value”, in the case of any estate, means the value of the estate as determined by such person as may be specified or described in, and otherwise in accordance with the terms of, the instrument containing the assured percentage covenant or equity percentage covenant in question;

“qualifying lending institution” means—

- (a) the Corporation;
- (b) a building society, within the meaning of the Building Societies Act 1986(2);
- (c) a bank;
- (d) an insurance company; or
- (e) a friendly society;”.

(7) After that subsection there shall be added—

“(6) a mortgage securing a person's liability to make any payment required by an assured percentage covenant or equity percentage covenant shall, by virtue of this subsection, have priority immediately after any legal charge securing an amount advanced to that person by a qualifying lending institution—

- (a) for the purpose of enabling him to acquire the estate in question; or
- (b) with the written consent of the housing association, for the purpose of enabling him to carry out any improvement to the house in question.”

(8) The amendments made by this article extend to England and Wales only.