



Housing Act 1996

1996 CHAPTER 52

PART I

SOCIAL RENTED SECTOR

CHAPTER I

REGISTERED SOCIAL LANDLORDS

Registration

1 The register of social landlords

- (1) The Corporation shall maintain a register of social landlords which shall be open to inspection at all reasonable times at the head office of the Corporation.
- (2) On the commencement of this section every housing association which immediately before commencement was registered in the register kept by the Corporation under Part I of the Housing Associations Act 1985 shall be registered as a social landlord.

2 Eligibility for registration

- (1) A body is eligible for registration as a social landlord if it is—
 - (a) a registered charity which is a housing association,
 - (b) a society registered under the Industrial and Provident Societies Act 1965 which satisfies the conditions in subsection (2), or
 - (c) a company registered under the Companies Act 1985 which satisfies those conditions.
- (2) The conditions are that the body is non-profit-making and is established for the purpose of, or has among its objects or powers, the provision, construction, improvement or management of—

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- (a) houses to be kept available for letting,
- (b) houses for occupation by members of the body, where the rules of the body restrict membership to persons entitled or prospectively entitled (as tenants or otherwise) to occupy a house provided or managed by the body, or
- (c) hostels,

and that any additional purposes or objects are among those specified in subsection (4).

- (3) For the purposes of this section a body is non-profit-making if—
- (a) it does not trade for profit, or
 - (b) its constitution or rules prohibit the issue of capital with interest or dividend exceeding the rate prescribed by the Treasury for the purposes of section 1(1)(b) of the Housing Associations Act 1985.
- (4) The permissible additional purposes or objects are—
- (a) providing land, amenities or services, or providing, constructing, repairing or improving buildings, for its residents, either exclusively or together with other persons;
 - (b) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of on sale, on lease or on shared ownership terms;
 - (c) constructing houses to be disposed of on shared ownership terms;
 - (d) managing houses held on leases or other lettings (not being houses within subsection (2)(a) or (b)) or blocks of flats;
 - (e) providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works;
 - (f) encouraging and giving advice on the forming of housing associations or providing services for, and giving advice on the running of, such associations and other voluntary organisations concerned with housing, or matters connected with housing.
- (5) A body is not ineligible for registration as a social landlord by reason only that its powers include power—
- (a) to acquire commercial premises or businesses as an incidental part of a project or series of projects undertaken for purposes or objects falling within subsection (2) or (4);
 - (b) to repair, improve or convert commercial premises acquired as mentioned in paragraph (a) or to carry on for a limited period any business so acquired;
 - (c) to repair or improve houses, or buildings in which houses are situated, after a disposal of the houses by the body by way of sale or lease or on shared ownership terms.
- (6) In this section—
- “block of flats” means a building containing two or more flats which are held on leases or other lettings and which are occupied or intended to be occupied wholly or mainly for residential purposes;
- “disposed of on shared ownership terms” means disposed of on a lease—
- (a) granted on a payment of a premium calculated by reference to a percentage of the value of the house or of the cost of providing it, or

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(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;

“letting” includes the grant of a licence to occupy;

“residents”, in relation to a body, means persons occupying a house or hostel provided or managed by the body; and

“voluntary organisation” means an organisation whose activities are not carried on for profit.

(7) The Secretary of State may by order specify permissible purposes, objects or powers additional to those specified in subsections (4) and (5).

The order may (without prejudice to the inclusion of other incidental or supplementary provisions) contain such provision as the Secretary of State thinks fit with respect to the priority of mortgages entered into in pursuance of any additional purposes, objects or powers.

(8) An order under subsection (7) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

3 Registration

(1) The Corporation may register as a social landlord any body which is eligible for such registration.

(2) An application for registration shall be made in such manner, and shall be accompanied by such fee (if any), as the Corporation may determine.

(3) As soon as may be after registering a body as a social landlord the Corporation shall give notice of the registration—

(a) in the case of a registered charity, to the Charity Commissioners,

(b) in the case of an industrial and provident society, to the appropriate registrar, and

(c) in the case of a company registered under the Companies Act 1985 (including such a company which is also a registered charity), to the registrar of companies,

who shall record the registration.

(4) A body which at any time is, or was, registered as a social landlord shall, for all purposes other than rectification of the register, be conclusively presumed to be, or to have been, at that time a body eligible for registration as a social landlord.

4 Removal from the register

(1) A body which has been registered as a social landlord shall not be removed from the register except in accordance with this section.

(2) If it appears to the Corporation that a body which is on the register of social landlords—

(a) is no longer a body eligible for such 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.

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- (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 as a social landlord may request the Corporation to remove it from the register and the Corporation may do so, subject to the following provisions.
- (5) Before removing a body from the register of social landlords under subsection (4) the Corporation shall consult the local authorities in whose area the body operates; and the Corporation shall also inform those authorities of its decision.
- (6) As soon as may be after removing a body from the register of social landlords the Corporation shall give notice of the removal—
 - (a) in the case of a registered charity, to the Charity Commissioners,
 - (b) in the case of an industrial and provident society, to the appropriate registrar, and
 - (c) in the case of a company registered under the Companies Act 1985 (including such a company which is also a registered charity), to the registrar of companies,who shall record the removal.

5 Criteria for registration or removal from register

- (1) The Corporation shall establish (and may from time to time vary) criteria which should be satisfied by a body seeking registration as a social landlord; and in deciding whether to register a body the Corporation shall have regard to whether those criteria are met.
- (2) The Corporation shall establish (and may from time to time vary) criteria which should be satisfied where such a body seeks to be removed from the register of social landlords; and in deciding whether to remove a body from the register the Corporation shall have regard to whether those criteria are met.
- (3) Before establishing or varying any such criteria the Corporation shall consult such bodies representative of registered social landlords, and such bodies representative of local authorities, as it thinks fit.
- (4) The Corporation shall publish the criteria for registration and the criteria for removal from the register in such manner as the Corporation considers appropriate for bringing the criteria to the notice of bodies representative of registered social landlords and bodies representative of local authorities.

6 Appeal against decision on removal

- (1) A body which is aggrieved by a decision of the Corporation—
 - (a) not to register it as a social landlord, or
 - (b) to remove or not to remove it from the register of social landlords,may appeal against the decision to the High Court.
- (2) If an appeal is brought against a decision relating to the removal of a body from the register, the Corporation shall not remove the body from the register until the appeal has been finally determined or is withdrawn.

- (3) As soon as may be after an appeal is brought against a decision relating to the removal of a body from the register, the Corporation shall give notice of the appeal—
- (a) in the case of a registered charity, to the Charity Commissioners,
 - (b) in the case of an industrial and provident society, to the appropriate registrar, and
 - (c) in the case of a company registered under the Companies Act 1985 (including such a company which is also a registered charity), to the registrar of companies.

Regulation of registered social landlords

7 Regulation of registered social landlords

Schedule 1 has effect for the regulation of registered social landlords.

Part I relates to the control of payments to members and similar matters.

Part II relates to the constitution, change of rules, amalgamation or dissolution of a registered social landlord.

Part III relates to accounts and audit.

Part IV relates to inquiries into the affairs of a registered social landlord.

CHAPTER II

DISPOSAL OF LAND AND RELATED MATTERS

Power of registered social landlord to dispose of land

8 Power of registered social landlord to dispose of land

- (1) A registered social landlord has power by virtue of this section and 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 social landlord; and accordingly the disposal need not be for the best consideration in money that can reasonably be obtained.

Nothing in this subsection shall be taken to authorise any action on the part of a charity which would conflict with the trusts of the charity.

- (3) This section has effect subject to section 9 (control by Corporation of land transactions).

Control by Corporation of land transactions

9 Consent required for disposal of land by registered social landlord

- (1) The consent of the Corporation, given by order under the seal of the Corporation, is required for any disposal of land by a registered social landlord under section 8.
- (2) The consent of the Corporation may be so given—

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- (a) generally to all registered social landlords or to a particular landlord or description of landlords;
 - (b) in relation to particular land or in relation to a particular description of land, and may be given subject to conditions.
- (3) Before giving any consent other than a consent in relation to a particular landlord or particular land, the Corporation shall consult such bodies representative of registered social landlords as it thinks fit.
- (4) A disposal of a house by a registered social landlord made without the consent required by this section is void unless—
- (a) the disposal is to an individual (or to two or more individuals),
 - (b) the disposal does not extend to any other house, and
 - (c) the landlord reasonably believes that the individual or individuals intend to use the house as their principal dwelling.
- (5) Any other disposal by a registered social landlord which requires consent under this section is valid in favour of a person claiming under the landlord notwithstanding that that consent has not been given; and a person dealing with a registered social landlord, or with a person claiming under such a landlord, shall not be concerned to see or inquire whether any such consent has been given.
- (6) Where at the time of its removal from the register of social landlords 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 social landlord.
- (7) For the purposes of this section “disposal” means sale, lease, mortgage, charge or any other disposition.
- (8) This section has effect subject to section 10 (lettings and other disposals not requiring consent of Corporation).

10 Lettings and other disposals not requiring consent of Corporation

- (1) A letting by a registered social landlord does not require consent under section 9 if it is—
- (a) a letting of land under an assured tenancy or an assured agricultural occupancy, or what would be an assured tenancy or an assured agricultural occupancy but for any of paragraphs 4 to 8, or paragraph 12(1)(h), of Schedule 1 to the Housing Act 1988, or
 - (b) a letting of land under a secure tenancy or what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 to the Housing Act 1985.
- (2) Consent under section 9 is not required in the case of a disposal to which section 81 or 133 of the Housing Act 1988 applies (certain disposals for which the consent of the Secretary of State is required).
- (3) Consent under section 9 is not required for a disposal under Part V of the Housing Act 1985 (the right to buy) or under the right conferred by section 16 below (the right to acquire).

11 Covenant for repayment of discount on disposal

- (1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Corporation under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain a covenant binding on the purchaser and his successors in title to the following effect.
- (2) The covenant shall be to pay to the landlord on demand, if within a period of three years there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal then only on the first of them), an amount equal to the discount reduced by one-third for each complete year which has elapsed after the conveyance, grant or assignment and before the further disposal.
- (3) The liability that may arise under the covenant is a charge on the house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.
- (4) A charge taking effect by virtue of this section is a land charge for the purposes of section 59 of the Land Registration Act 1925 notwithstanding subsection (5) of that section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.
- (5) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, &c.)—
 - (a) the covenant required by this section is not binding on the person to whom the disposal is made or any successor in title of his, and
 - (b) the covenant and the charge taking effect by virtue of this section ceases to apply in relation to the property disposed of.

12 Priority of charge for repayment of discount

- (1) The charge taking effect by virtue of section 11 (charge for repayment of discount) has priority immediately after any legal charge securing an amount—
 - (a) left outstanding by the purchaser, or
 - (b) advanced to him by an approved lending institution for the purpose of enabling him to acquire the interest disposed of on the first disposal,subject to the following provisions.

- (2) An advance which is made for a purpose other than that mentioned in subsection (1) (b) and which is secured by a legal charge having priority to the charge taking effect by virtue of section 11, and any further advance which is so secured, shall rank in priority to that charge if, and only if, the registered social landlord by notice served on the institution concerned gives consent.

The landlord shall give consent if the purpose of the advance or further advance is an approved purpose.

- (3) The registered social landlord may at any time by notice served on an approved lending institution postpone the charge taking effect by virtue of section 11 to an advance or further advance which—
 - (a) is made to the purchaser by that institution, and
 - (b) is secured by a legal charge not having priority to that charge;and the landlord shall serve such a notice if the purpose of the advance or further advance is an approved purpose.

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- (4) The covenant required by section 11 does not, by virtue of its binding successors in title of the purchaser, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of that section, or a person deriving title under him.

A provision of the conveyance, grant or assignment, or of a collateral agreement, is void in so far as it purports to authorise a forfeiture, or to impose a penalty or disability, in the event of any such person failing to comply with that covenant.

- (5) In this section “approved lending institution” means—
- (a) a building society, bank, insurance company or friendly society,
 - (b) the Corporation, or
 - (c) any body specified, or of a class or description specified, in an order made under section 156 of the Housing Act 1985 (which makes corresponding provision in relation to disposals in pursuance of the right to buy).
- (6) The following are “approved purposes” for the purposes of this section—
- (a) to enable the purchaser to defray, or to defray on his behalf, any of the following—
 - (i) the cost of any works to the house,
 - (ii) any service charge payable in respect of the house for works, whether or not to the house, and
 - (iii) any service charge or other amount payable in respect of the house for insurance, whether or not of the house, and
 - (b) to enable the purchaser to discharge, or to discharge on his behalf, any of the following—
 - (i) so much as is still outstanding of any advance or further advance which ranks in priority to the charge taking effect by virtue of section 11,
 - (ii) any arrears of interest on such an advance or further advance, and
 - (iii) any costs and expenses incurred in enforcing payment of any such interest, or repayment (in whole or in part) of any such advance or further advance.

In this subsection “service charge” has the meaning given by section 621A of the Housing Act 1985.

- (7) Where different parts of an advance or further advance are made for different purposes, each of those parts shall be regarded as a separate advance or further advance for the purposes of this section.

13 Restriction on disposal of houses in National Parks, &c

- (1) On the disposal by a registered social landlord, in accordance with a consent given by the Corporation under section 9, of a house situated in—
- (a) a National Park,
 - (b) an area designated under section 87 of the National Parks and Access to the Countryside Act 1949 as an area of outstanding natural beauty, or
 - (c) an area designated as a rural area by order under section 157 of the Housing Act 1985,

the conveyance, grant or assignment may (unless it contains a condition of a kind mentioned in section 33(2)(b) or (c) of the Housing Act 1985 (right of pre-emption

or restriction on assignment)) contain a covenant to the following effect limiting the freedom of the purchaser (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the house.

- (2) The limitation is that until such time (if any) as may be notified in writing by the registered social landlord to the purchaser or a successor in title of his, there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord.
- (3) That consent shall not be withheld if the person to whom the disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent—
 - (a) had his place of work in a region designated by order under section 157(3) of the Housing Act 1985 which, or part of which, is comprised in the National Park or area concerned, or
 - (b) had his only or principal home in such a region, or if he has had the one in part or parts of that period and the other in the remainder.The region need not have been the same throughout the period.
- (4) A disposal in breach of such a covenant as is mentioned above is void.
- (5) The limitation imposed by such a covenant is a local land charge and, if the land is registered under the Land Registration Act 1925, the Chief Land Registrar shall enter the appropriate restriction on the register of title as if an application to that effect had been made under section 58 of that Act.
- (6) In this section “purchaser” means the person acquiring the interest disposed of by the first disposal.
- (7) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, &c.), any such covenant as is mentioned in this section ceases to apply in relation to the property disposed of.

14 Treatment of options

- (1) For the purposes of sections 9 to 13 the grant of an option enabling a person to call for a relevant disposal which is not an exempted disposal shall be treated as such a disposal made to him.
- (2) For the purposes of section 13(2) (requirement of consent to disposal of house in National Park, &c.) consent to such a grant shall be treated as consent to a disposal made in pursuance of the option.

15 Relevant and exempted disposals

- (1) In sections 11 to 14 the expression “relevant disposal which is not an exempted disposal” shall be construed as follows.
- (2) A disposal, whether of the whole or part of the house, is a relevant disposal if it is—
 - (a) a conveyance of the freehold or an assignment of the lease, or
 - (b) the grant of a lease or sub-lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack-rent.

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- (3) For the purposes of subsection (2)(b) it shall be assumed—
- (a) that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and
 - (b) that any option to terminate a lease or sub-lease is not exercised.
- (4) A disposal is an exempted disposal if—
- (a) it is a disposal of the whole of the house and a conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person (as defined in subsection (5));
 - (b) it is a vesting of the whole of the house in a person taking under a will or on an intestacy;
 - (c) it is a disposal of the whole of the house in pursuance of any such order as is mentioned in subsection (6);
 - (d) it is a compulsory disposal (as defined in subsection (7));
 - (e) the property disposed of is a yard, garden, outhouses or appurtenances belonging to a house or usually enjoyed with it.
- (5) For the purposes of subsection (4)(a) a person is a qualifying person in relation to a disposal if—
- (a) he is the person or one of the persons by whom the disposal is made,
 - (b) he is the spouse or a former spouse of that person or one of those persons, or
 - (c) he is a member of the family of that person or one of those persons and has resided with him throughout the period of twelve months ending with the disposal.
- (6) The orders referred to in subsection (4)(c) are orders under—
- (a) section 24 or 24A of the Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings);
 - (b) section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate);
 - (c) section 17 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.); or
 - (d) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).
- (7) For the purposes of subsection (4)(d) a compulsory disposal is a disposal of property which is acquired compulsorily, or is acquired by a person who has made or would have made, or for whom another person has made or would have made, a compulsory purchase order authorising its compulsory purchase for the purposes for which it is acquired.

Right of tenant to acquire dwelling

16 Right of tenant to acquire dwelling

- (1) A tenant of a registered social landlord has the right to acquire the dwelling of which he is a tenant if—

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- (a) he is a tenant under an assured tenancy, other than an assured shorthold tenancy or a long tenancy, or under a secure tenancy,
 - (b) the dwelling was provided with public money and has remained in the social rented sector, and
 - (c) he satisfies any further qualifying conditions applicable under Part V of the Housing Act 1985 (the right to buy) as it applies in relation to the right conferred by this section.
- (2) For this purpose a dwelling shall be regarded as provided with public money if—
- (a) it was provided or acquired wholly or in part by means of a grant under section 18 (social housing grant),
 - (b) it was provided or acquired wholly or in part by applying or appropriating sums standing in the disposal proceeds fund of a registered social landlord (see section 25), or
 - (c) it was acquired by a registered social landlord after the commencement of this paragraph on a disposal by a public sector landlord at a time when it was capable of being let as a separate dwelling.
- (3) A dwelling shall be regarded for the purposes of this section as having remained within the social rented sector if, since it was so provided or acquired—
- (a) the person holding the freehold interest in the dwelling has been either a registered social landlord or a public sector landlord; and
 - (b) any person holding an interest as lessee (otherwise than as mortgagee) in the dwelling has been—
 - (i) an individual holding otherwise than under a long tenancy; or
 - (ii) a registered social landlord or a public sector landlord.
- (4) A dwelling shall be regarded for the purposes of this section as provided by means of a grant under section 18 (social housing grant) if, and only if, the Corporation when making the grant notified the recipient that the dwelling was to be so regarded.

The Corporation shall before making the grant inform the applicant that it proposes to give such a notice and allow him an opportunity to withdraw his application within a specified time.

17 Right of tenant to acquire dwelling: supplementary provisions

- (1) The Secretary of State may by order—
- (a) specify the amount or rate of discount to be given on the exercise of the right conferred by section 16; and
 - (b) designate rural areas in relation to dwellings in which the right conferred by that section does not arise.
- (2) The provisions of Part V of the Housing Act 1985 apply in relation to the right to acquire under section 16—
- (a) subject to any order under subsection (1) above, and
 - (b) subject to such other exceptions, adaptations and other modifications as may be specified by regulations made by the Secretary of State.
- (3) The regulations may provide—
- (a) that the powers of the Secretary of State under sections 164 to 170 of that Act (powers to intervene, give directions or assist) do not apply,

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- (b) that paragraphs 1 and 3 (exceptions for charities and certain housing associations), and paragraph 11 (right of appeal to Secretary of State), of Schedule 5 to that Act do not apply,
- (c) that the provisions of Part V of that Act relating to the right to acquire on rent to mortgage terms do not apply,
- (d) that the provisions of that Part relating to restrictions on disposals in National Parks, &c. do not apply, and
- (e) that the provisions of that Part relating to the preserved right to buy do not apply.

Nothing in this subsection affects the generality of the power conferred by subsection (2).

- (4) The specified exceptions, adaptations and other modifications shall take the form of textual amendments of the provisions of Part V of that Act as they apply in relation to the right to buy under that Part; and the first regulations, and any subsequent consolidating regulations, shall set out the provisions of Part V as they so apply.
- (5) An order or regulations under this section—
 - (a) may make different provision for different cases or classes of case including different areas, and
 - (b) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers appropriate.
- (6) Before making an order which would have the effect that an area ceased to be designated under subsection (1)(b), the Secretary of State shall consult—
 - (a) the local housing authority or authorities in whose district the area or any part of it is situated or, if the order is general in its effect, local housing authorities in general, and
 - (b) such bodies appearing to him to be representative of registered social landlords as he considers appropriate.
- (7) An order or 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.

CHAPTER III

GRANTS AND OTHER FINANCIAL MATTERS

Grants and other financial assistance

18 Social housing grants

- (1) The Corporation may make grants to registered social landlords in respect of expenditure incurred or to be incurred by them in connection with their housing activities.
- (2) The Corporation, acting in accordance with such principles as it may from time to time determine, shall specify in relation to grants under this section—
 - (a) the procedure to be followed in relation to applications for grant,

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- (b) the circumstances in which grant is or is not to be payable,
 - (c) the method for calculating, and any limitations on, the amount of grant, and
 - (d) the manner in which, and time or times at which, grant is to be paid.
- (3) In making a grant under this section, the Corporation may provide that the grant is conditional on compliance by the landlord with such conditions as the Corporation may specify.
- (4) The Corporation may, with the agreement of a local housing authority, appoint the authority to act as its agent in connection with the assessment and payment of grant under this section.
- (5) The appointment shall be on such terms as the Corporation may, with the approval of the Secretary of State given with the consent of the Treasury, specify; and the authority shall act in accordance with those terms.
- (6) Where—
 - (a) a grant under this section is payable to a registered social landlord, 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, another registered social landlord, or trustees for another such landlord,this section (including this subsection) shall have effect after that time as if the grant, or such proportion of it as is specified or determined under subsection (7), were payable to the other landlord.
- (7) The proportion mentioned in subsection (6) is that which, in the circumstances of the particular case—
 - (a) the Corporation, acting in accordance with such principles as it may from time to time determine, may specify as being appropriate, or
 - (b) the Corporation may determine to be appropriate.
- (8) Where one of the landlords mentioned in subsection (6) is registered by the Housing Corporation and another is registered by Housing for Wales, the determination mentioned in subsection (7) shall be such as shall be agreed between the two Corporations.

19 Land subject to housing management agreement

A registered social landlord is not entitled to a grant under section 18 (social housing grant) in respect of land comprised in a management agreement within the meaning of the Housing Act 1985 (see sections 27(2) and 27B(4) of that Act: delegation of housing management functions by certain authorities).

20 Purchase grant where right to acquire exercised

- (1) The Corporation shall make grants to registered social landlords in respect of discounts given by them to persons exercising the right to acquire conferred by section 16.
- (2) The amount of the grant for any year shall be the aggregate value of the discounts given in that year.
- (3) The Corporation, acting in accordance with such principles as it may from time to time determine, shall specify in relation to grants under this section—
 - (a) the procedure to be followed in relation to applications for grant,

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(b) the manner in which, and time or times at which, grant is to be paid.

(4) In making a grant the Corporation may provide that the grant is conditional on compliance by the registered social landlord with such conditions as the Corporation may specify.

21 Purchase grant in respect of other disposals

(1) The Corporation may make grants to registered social landlords in respect of discounts on disposals by them of dwellings to tenants otherwise than in pursuance of the right conferred by section 16.

(2) The Corporation shall make such a grant if the tenant was entitled to exercise the right conferred by section 16 in relation to another dwelling of the landlord's.

The amount of the grant in such a case shall not exceed the amount of the discount to which the tenant would have been entitled in respect of the other dwelling.

(3) The Corporation, acting in accordance with such principles as it may from time to time determine, shall specify in relation to grants under this section—

- (a) the procedure to be followed in relation to applications for grant;
- (b) the circumstances in which grant is or is not to be payable;
- (c) the method for calculating, and any limitations on, the amount of grant; and
- (d) the manner in which, and time or times at which, grant is to be paid.

(4) In making a grant under this section, the Corporation may provide that the grant is conditional on compliance by the registered social landlord with such conditions as the Corporation may specify.

22 Assistance from local authorities

(1) A local authority may promote—

- (a) the formation of bodies to act as registered social landlords, and
- (b) the extension of the objects or activities of registered social landlords.

(2) A local authority may for the assistance of any registered social landlord subscribe for share or loan capital of the landlord.

(3) A local authority may for the assistance of a registered social landlord—

- (a) make grants or loans to the landlord, or
- (b) guarantee or join in guaranteeing the payment of the principal of, and interest on, money borrowed by the landlord (including money borrowed by the issue of loan capital) or of interest on share capital issued by the landlord.

(4) A local housing authority may sell or supply under a hire-purchase agreement furniture to the occupants of houses provided by a registered social landlord, and may buy furniture for that purpose.

In this subsection “hire-purchase agreement” means a hire-purchase agreement or conditional sale agreement within the meaning of the Consumer Credit Act 1974.

23 Loans by Public Works Loans Commissioners

- (1) The Public Works Loans Commissioners may lend money to a registered social landlord—
 - (a) for the purpose of constructing or improving, or facilitating or encouraging the construction or improvement, of dwellings,
 - (b) for the purchase of dwellings which the landlord desires to purchase with a view to their improvement, and
 - (c) for the purchase and development of land.
- (2) A loan for any of those purposes, and interest on the loan, shall be secured by a 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 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 dwellings or other work on the 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 accordingly be made to secure such loans to be so 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 Loans Commissioners shall require, in addition to such a mortgage as is mentioned in that subsection, such further security as they 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.

Treatment of disposal proceeds

24 The disposal proceeds fund

- (1) A registered social landlord shall show separately in its accounts for any period ending after the coming into force of this section its net disposal proceeds.
- (2) The net disposal proceeds of a registered social landlord are—
 - (a) the net proceeds of sale received by it in respect of any disposal of land to a tenant—

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- (i) in pursuance of the right conferred by section 16 (right of tenant to acquire dwelling), or
 - (ii) in respect of which a grant was made under section 21 (purchase grant in respect of other disposals);
 - (b) payments of grant received by it under section 20 or 21 (purchase grant);
 - (c) where any such grant has been paid to it, any repayments of discount in respect of which the grant was given; and
 - (d) such other proceeds of sale or payments of grant (if any) as the Corporation may from time to time determine.
- (3) The net proceeds of sale means the proceeds of sale less an amount calculated in accordance with a determination by the Corporation.
 - (4) The disposal proceeds shall be shown in a fund to be known as a disposal proceeds fund.
 - (5) The method of constituting the fund and showing it in the landlord's accounts shall be as required by determination of the Corporation under paragraph 16 of Schedule 1 (general requirements as to accounts).
 - (6) Interest shall be added to the fund in accordance with a determination made by the Corporation.
 - (7) Where this section applies in relation to the proceeds of sale arising on a disposal, section 27 below (recovery, &c. of social housing grants) and section 52 of the Housing Act 1988 (recovery, &c. of grants under that Act and earlier enactments) do not apply.

25 Application or appropriation of disposal proceeds

- (1) The sums standing in the disposal proceeds account of a registered social landlord ("disposal proceeds") may only be applied or appropriated by it for such purposes and in such manner as the Corporation may determine.
- (2) If any disposal proceeds are not applied or appropriated as mentioned in subsection (1) within such time as is specified by determination of the Corporation, the Corporation may direct that the whole or part of them shall be paid to it.

26 Disposal proceeds: power to require information

- (1) The Corporation may give notice—
 - (a) to all registered social landlords,
 - (b) to registered social landlords of a particular description, or
 - (c) to particular registered social landlords,
 requiring them to furnish it with such information as it may reasonably require in connection with the exercise of its functions under sections 24 and 25 (treatment of disposal proceeds).
- (2) A notice under subsection (1)(a) or (b) may be given by publication in such manner as the Corporation considers appropriate for bringing it to the attention of the landlords concerned.

Recovery, &c. of social housing grants

27 Recovery, &c. of social housing grants

- (1) Where a registered social landlord has received a grant under section 18 (social housing grant), the following powers are exercisable in such events as the Corporation may from time to time determine.
- (2) The Corporation may, acting in accordance with such principles as it has determined—
 - (a) reduce any grant payable by it, or suspend or cancel any instalment of any such grant, or
 - (b) direct the registered social landlord to apply or appropriate for such purposes as the Corporation may specify, or to pay to the Corporation, such amount as the Corporation may specify.
- (3) A direction by the Corporation under subsection (2)(b) may require the application, appropriation or payment of an amount with interest.
- (4) Any such direction shall specify—
 - (a) the rate or rates of interest (whether fixed or variable) which is or are applicable,
 - (b) the date from which interest is payable, and
 - (c) any provision for suspended or reduced interest which is applicable.

The date from which interest is payable must not be earlier than the date of the event giving rise to the exercise of the Corporation's powers under this section.
- (5) In subsection (4)(c)—
 - (a) provision for suspended interest means provision to the effect that if the principal amount is applied, appropriated or paid before a date specified in the direction, no interest will be payable for any period after the date of the direction; and
 - (b) provision for reduced interest means provision to the effect that if the principal amount is so applied, appropriated or paid, any interest payable will be payable at a rate or rates lower than the rate or rates which would otherwise be applicable.
- (6) Where—
 - (a) a registered social landlord has received a payment in respect of a grant under section 18, 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 social landlord,

this section (including this subsection) shall have effect in relation to periods after that time as if the grant, or such proportion of it as may be determined by the Corporation to be appropriate, had been made to that other registered social landlord.
- (7) The matters specified in a direction under subsection (4)(a) to (c), and the proportion mentioned in subsection (6), shall be—
 - (a) such as the Corporation, acting in accordance with such principles as it may from time to time determine, may specify as being appropriate, or
 - (b) such as the Corporation may determine to be appropriate in the particular case.

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Grants, &c. under earlier enactments

28 Grants under ss.50 to 55 of the Housing Act 1988

- (1) No application for a grant under section 50 of the Housing Act 1988 (housing association grant) may be made after the commencement of this subsection.
- (2) No application for a grant under section 51 of that Act (revenue deficit grant) may be made after the commencement of this subsection except by an association which had such a deficit as is mentioned in that section for any of the years beginning 1st April 1994, 1st April 1995 or 1st April 1996.
- (3) Section 52 of that Act (recovery, &c. of grants) is amended as follows—
 - (a) in subsection (2)(c), for “to pay to it” substitute “to apply or appropriate for such purposes as the Corporation may specify, or to pay to the Corporation,”;
 - (b) in the closing words of subsection (2), for the words from “requiring” to “interest on that amount” substitute “may require the application, appropriation or payment of an amount with interest”;
 - (c) in subsection (7), for the words from “requiring” to “to the Corporation” substitute “requiring the application, appropriation or payment of an amount with interest”;
 - (d) in subsection (8)(a), for the words from “the amount” to “is paid” substitute “the principal amount is applied, appropriated or paid”;
 - (e) in subsection (8)(b), for “that amount is so paid” substitute “the principal amount is so applied, appropriated or paid”.
- (4) In section 53 of that Act (determinations by Corporation), for subsection (2) (requirement of approval of Secretary of State and, in the case of a general determination, consent of the Treasury) substitute—

“(2) The Corporation shall not make a general determination under the foregoing provisions of this Part except with the approval of the Secretary of State.”
- (5) In section 55(1) of that Act (surplus rental income: cases in which section applies), omit paragraph (a).
- (6) Any reference in sections 50 to 55 of that Act to registration as a housing association shall be construed after the commencement of section 1 of this Act (the register of social landlords) as a reference to registration as a social landlord.

29 Commutation of payments of special residual subsidy

- (1) The Secretary of State may, after consultation with a housing association, determine to commute any payments of special residual subsidy payable to the association under paragraph 2 of Part I of Schedule 5 to the Housing Associations Act 1985 for the financial year 1998-99 and subsequent years.
- (2) Where the Secretary of State makes such a determination the payments of special residual subsidy payable to a housing association shall be commuted into a single sum calculated in such manner, and payable on such date, as the Secretary of State may consider appropriate.
- (3) If after a commuted payment has been made to a housing association it appears to the Secretary of State that the payment was smaller or greater than it should have been,

the Secretary of State may make a further payment to the association or require the association to repay to him such sum as he may direct.

- (4) The Secretary of State may delegate to the Housing Corporation, to such extent and subject to such conditions as he may specify, any of his functions under this section and, where he does so, references to him in this section shall be construed accordingly.

CHAPTER IV

GENERAL POWERS OF THE CORPORATION

Information

30 General power to obtain information

- (1) The Corporation may for any purpose connected with the discharge of any of its functions in relation to registered social landlords serve a notice on a person requiring him—
- (a) to give to the Corporation, at a time and place and in the form and manner specified in the notice, such information relating to the affairs of a registered social landlord as may be specified or described in the notice, or
 - (b) to produce to the Corporation or a person authorised by the Corporation, at a time and place specified in the notice, any documents relating to the affairs of the registered social landlord which are specified or described in the notice and are in his custody or under his control.
- (2) A notice under this section may be served on—
- (a) a registered social landlord,
 - (b) any person who is, or has been, an officer, member, employee or agent of a registered social landlord,
 - (c) a subsidiary or associate of a registered social landlord,
 - (d) any person who is, or has been, an officer, member, employee or agent of a subsidiary or associate of a registered social landlord, or
 - (e) any other person whom the Corporation has reason to believe is or may be in possession of relevant information.

In this section “agent” includes banker, solicitor and auditor.

- (3) No notice shall be served on a person within paragraphs (b) to (e) of subsection (2) unless—
- (a) a notice has been served on the registered social landlord and has not been complied with, or
 - (b) the Corporation believes that the information or documents in question are not in the possession of the landlord.
- (4) Nothing in this section authorises the Corporation to require—
- (a) the disclosure of anything which a person would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court, or

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- (b) the disclosure by a banker of anything in breach of any duty of confidentiality owed by him to a person other than a registered social landlord or a subsidiary or associate of a registered social landlord.
- (5) A notice under this section shall be given under the seal of the Corporation.
- (6) References in this section to a document are to anything in which information of any description is recorded; and in relation to a document in which information is recorded otherwise than in legible form, references to producing it are to producing it in legible form.
- (7) Where by virtue of this section documents are produced to any person, he may take copies of or make extracts from them.

31 Enforcement of notice to provide information, &c

- (1) A person who without reasonable excuse fails to do anything required of him by a notice under section 30 commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (2) A person who intentionally alters, suppresses or destroys a document which he has been required by a notice under section 30 to produce commits an offence and is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum,
 - (b) on conviction on indictment, to a fine.
- (3) Proceedings for an offence under subsection (1) or (2) may be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.
- (4) If a person makes default in complying with a notice under section 30, the High Court may, on the application of the Corporation, make such order as the court thinks fit for requiring the default to be made good.

Any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a body who are responsible for its default.

32 Disclosure of information to the Corporation

- (1) A body or person to whom this section applies may, subject to the following provisions, disclose to the Corporation, for the purpose of enabling the Corporation to discharge any of its functions relating to registered social landlords, any information received by that body or person under or for the purposes of any enactment.
- (2) This section applies to the following bodies and persons—
 - (a) any government department (including a Northern Ireland department);
 - (b) any local authority;
 - (c) any constable; and
 - (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).
- (3) This section has effect subject to any express restriction on disclosure imposed by or under any other enactment.

- (4) Nothing in this section shall be construed as affecting any power of disclosure exercisable apart from this section.

33 Disclosure of information by the Corporation

- (1) The Corporation may disclose to a body or person to whom this section applies any information received by it relating to a registered social landlord—
- (a) for any purpose connected with the discharge of the functions of the Corporation in relation to such landlords, or
 - (b) for the purpose of enabling or assisting that body or person to discharge any of its or his functions.
- (2) This section applies to the following bodies and persons—
- (a) any government department (including a Northern Ireland department);
 - (b) any local authority;
 - (c) any constable; and
 - (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).

Paragraph (d) extends to any such body or person in a country or territory outside the United Kingdom.

- (3) Where any information disclosed to the Corporation under section 32 is so disclosed subject to any express restriction on the further disclosure of the information, the Corporation's power of disclosure under this section is exercisable subject to that restriction.

A person who discloses information in contravention of any such restriction commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (4) Any information disclosed by the Corporation under this section may be subject by the Corporation to any express restriction on the further disclosure of the information.
- (5) A person who discloses information in contravention of any such restriction commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Proceedings for such an offence may be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.

- (6) Nothing in this section shall be construed as affecting any power of disclosure exercisable apart from this section.

Standards of performance

34 Standards of performance

The Corporation may, after consultation with persons or bodies appearing to it to be representative of registered social landlords, from time to time—

- (a) determine such standards of performance in connection with the provision of housing as, in its opinion, ought to be achieved by such landlords, and

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- (b) arrange for the publication, in such form and in such manner as it considers appropriate, of the standards so determined.

35 Information as to levels of performance

- (1) The Corporation shall from time to time collect information as to the levels of performance achieved by registered social landlords in connection with the provision of housing.
- (2) On or before such date in each year as may be specified in a direction given by the Corporation, each registered social landlord shall provide the Corporation, as respects each standard determined under section 34, with such information as to the level of performance achieved by him as may be so specified.
- (3) A registered social landlord who without reasonable excuse fails to do anything required of him by a direction under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Proceedings for such an offence may be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.

- (4) The Corporation shall at least once in every year arrange for the publication, in such form and in such manner as it considers appropriate, of such of the information collected by or provided to it under this section as appears to it expedient to give to tenants or potential tenants of registered social landlords.
- (5) In arranging for the publication of any such information the Corporation shall have regard to the need for excluding, so far as that is practicable—
 - (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Corporation, seriously and prejudicially affect the interests of that individual; and
 - (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Corporation, seriously and prejudicially affect the interests of that body.

Housing management

36 Issue of guidance by the Corporation

- (1) The Corporation may issue guidance with respect to the management of housing accommodation by registered social landlords.
- (2) Guidance under this section may, in particular, be issued with respect to—
 - (a) the housing demands for which provision should be made and the means of meeting those demands;
 - (b) the allocation of housing accommodation between individuals;
 - (c) the terms of tenancies and the principles upon which levels of rent should be determined;
 - (d) standards of maintenance and repair and the means of achieving those standards;
 - (e) the services to be provided to tenants;

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- (f) the procedures to be adopted to deal with complaints by tenants against a landlord;
 - (g) consultation and communication with tenants;
 - (h) the devolution to tenants of decisions concerning the management of housing accommodation.
- (3) Before issuing any guidance under this section the Corporation shall—
- (a) consult such bodies appearing to it to be representative of registered social landlords as it considers appropriate, and
 - (b) submit a draft of the proposed guidance to the Secretary of State for his approval.
- (4) If the Secretary of State gives his approval to the draft submitted to him, the Corporation shall issue the guidance in such manner as the Corporation considers appropriate for bringing it to the notice of the landlords concerned.
- (5) Guidance issued under this section may be revised or withdrawn; and subsections (3) and (4) apply in relation to the revision of guidance as in relation to its issue.
- (6) Guidance under this section may make different provision in relation to different cases and, in particular, in relation to different areas, different descriptions of housing accommodation and different descriptions of registered social landlord.
- (7) In considering whether action needs to be taken to secure the proper management of the affairs of a registered social landlord or whether there has been mismanagement, the Corporation may have regard (among other matters) to the extent to which any guidance under this section is being or has been followed.

37 Powers of entry

- (1) This section applies where it appears to the Corporation that a registered social landlord may be failing to maintain or repair any premises in accordance with guidance issued under section 36.
- (2) A person authorised by the Corporation may at any reasonable time, on giving not less than 28 days' notice of his intention to the landlord concerned, enter any such premises for the purpose of survey and examination.
- (3) Where such notice is given to the landlord, the landlord shall give the occupier or occupiers of the premises not less than seven days' notice of the proposed survey and examination.
- A landlord who fails to do so commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Proceedings for an offence under subsection (3) may be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.
- (5) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf.
- (6) The Corporation shall give a copy of any survey carried out in exercise of the powers conferred by this section to the landlord concerned.

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- (7) The Corporation may require the landlord concerned to pay to it such amount as the Corporation may determine towards the costs of carrying out any survey under this section.

38 Penalty for obstruction of person exercising power of entry

- (1) It is an offence for a registered social landlord or any of its officers or employees to obstruct a person authorised under section 37 (powers of entry) to enter premises in the performance of anything which he is authorised by that section to do.
- (2) A person who commits such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) Proceedings for such an offence may be brought only by or with the consent of the Corporation or the Director of Public Prosecutions.

Insolvency, &c. of registered social landlord

39 Insolvency, &c. of registered social landlord: scheme of provisions

- (1) The following sections make provision—
- (a) for notice to be given to the Corporation of any proposal to take certain steps in relation to a registered social landlord (section 40), and for further notice to be given when any such step is taken (section 41),
 - (b) for a moratorium on the disposal of land, and certain other assets, held by the registered social landlord (sections 42 and 43),
 - (c) for proposals by the Corporation as to the future ownership and management of the land held by the landlord (section 44), which are binding if agreed (section 45),
 - (d) for the appointment of a manager to implement agreed proposals (section 46) and as to the powers of such a manager (sections 47 and 48),
 - (e) for the giving of assistance by the Corporation (section 49), and
 - (f) for application to the court to secure compliance with the agreed proposals (section 50).
- (2) In those sections—
- “disposal” means sale, lease, mortgage, charge or any other disposition, and includes the grant of an option;
- “secured creditor” means a creditor who holds a mortgage or charge (including a floating charge) over land held by the landlord or any existing or future interest of the landlord in rents or other receipts from land; and
- “security” means any mortgage, charge or other security.
- (3) The Secretary of State may make provision by order defining for the purposes of those sections what is meant by a step to enforce security over land.

Any such order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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40 Initial notice to be given to the Corporation

- (1) Notice must be given to the Corporation before any of the steps mentioned below is taken in relation to a registered social landlord.

The person by whom the notice must be given is indicated in the second column.

- (2) Where the registered social landlord is an industrial and provident society, the steps and the person by whom notice must be given are—

Any step to enforce any security over land held by the landlord.	The person proposing to take the step.
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Presenting a petition for the winding up of the landlord.	The petitioner.
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Passing a resolution for the winding up of the landlord.	The landlord.
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- (3) Where the registered social landlord is a company registered under the Companies Act 1985 (including a registered charity), the steps and the person by whom notice must be given are—

Any step to enforce any security over land held by the landlord.	The person proposing to take the step.
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Applying for an administration order.	The applicant.
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Presenting a petition for the winding up of the landlord.	The petitioner.
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Passing a resolution for the winding up of the landlord.	The landlord.
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- (4) Where the registered social landlord is a registered charity (other than a company registered under the Companies Act 1985), the steps and the person by whom notice must be given are—

Any step to enforce any security over land held by the landlord.	The person proposing to take the step.
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- (5) Notice need not be given under this section in relation to a resolution for voluntary winding up where the consent of the Corporation is required (see paragraphs 12(4) and 13(6) of Schedule 1).

- (6) Any step purportedly taken without the requisite notice being given under this section is ineffective.

41 Further notice to be given to the Corporation

- (1) Notice must be given to the Corporation as soon as may be after any of the steps mentioned below is taken in relation to a registered social landlord.

The person by whom the notice must be given is indicated in the second column.

- (2) Where the registered social landlord is an industrial and provident society, the steps and the person by whom notice must be given are—

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The taking of a step to enforce any security over land held by the landlord.	The person taking the step.
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The making of an order for the winding up of the landlord.	The petitioner.
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The passing of a resolution for the winding up of the landlord.	The landlord.
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- (3) Where the registered social landlord is a company registered under the Companies Act 1985 (including a registered charity), the steps and the person by whom notice must be given are—

The taking of a step to enforce any security over land held by the landlord.	The person taking the step.
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The making of an administration order.	The person who applied for the order.
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The making of an order for the winding up of the landlord.	The petitioner.
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The passing of a resolution for the winding up of the landlord.	The landlord.
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- (4) Where the registered social landlord is a registered charity (other than a company registered under the Companies Act 1985), the steps and the person by whom notice must be given are—

The taking of a step to enforce any security over land held by the landlord.	The person taking the step.
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- (5) Failure to give notice under this section does not affect the validity of any step taken; but the period of 28 days mentioned in section 43(1) (period after which moratorium on disposal of land, &c. ends) does not begin to run until any requisite notice has been given under this section.

42 Moratorium on disposal of land, &c

- (1) Where any of the steps mentioned in section 41 is taken in relation to a registered social landlord, there is a moratorium on the disposal of land held by the landlord.

- (2) During the moratorium the consent of the Corporation under this section is required (except as mentioned below) for any disposal of land held by the landlord, whether by the landlord itself or any person having a power of disposal in relation to the land.

Consent under this section may be given in advance and may be given subject to conditions.

- (3) Consent is not required under this section for any such disposal as is mentioned in section 10(1), (2) or (3) (lettings and other disposals not requiring consent under section 9).

- (4) A disposal made without the consent required by this section is void.

- (5) Nothing in this section prevents a liquidator from disclaiming any land held by the landlord as onerous property.
- (6) The provisions of this section apply in relation to any existing or future interest of the landlord in rent or other receipts arising from land as they apply to an interest in land.

43 Period of moratorium

- (1) The moratorium in consequence of the taking of any step as mentioned in section 41—
 - (a) begins when the step is taken, and
 - (b) ends at the end of the period of 28 days beginning with the day on which notice of its having been taken was given to the Corporation under that section,subject to the following provisions.
- (2) The taking of any further step as mentioned in section 41 at a time when a moratorium is already in force does not start a further moratorium or affect the duration of the existing one.
- (3) A moratorium may be extended from time to time with the consent of all the landlord's secured creditors.

Notice of any such extension shall be given by the Corporation to—

- (a) the landlord, and
 - (b) any liquidator, administrative receiver, receiver or administrator appointed in respect of the landlord or any land held by it.
- (4) If during a moratorium the Corporation considers that the proper management of the landlord's land can be secured without making proposals under section 44 (proposals as to ownership and management of landlord's land), the Corporation may direct that the moratorium shall cease to have effect.

Before making any such direction the Corporation shall consult the person who took the step which brought about the moratorium.

- (5) When a moratorium comes to an end, or ceases to have effect under subsection (4), the Corporation shall give notice of that fact to the landlord and the landlord's secured creditors.
- (6) When a moratorium comes to an end (but not when it ceases to have effect under subsection (4)), the following provisions of this section apply.

The Corporation's notice shall, in such a case, inform the landlord and the landlord's secured creditors of the effect of those provisions.

- (7) If any further step as mentioned in section 41 is taken within the period of three years after the end of the original period of the moratorium, the moratorium may be renewed with the consent of all the landlord's secured creditors (which may be given before or after the step is taken).

Notice of any such renewal shall be given by the Corporation to the persons to whom notice of an extension is required to be given under subsection (3).

- (8) If a moratorium ends without any proposals being agreed, then, for a period of three years the taking of any further step as mentioned in section 41 does not start a further

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moratorium except with the consent of the landlord's secured creditors as mentioned in subsection (7) above.

44 Proposals as to ownership and management of landlord's land

- (1) During the moratorium (see sections 42 and 43) the Corporation may make proposals as to the future ownership and management of the land held by the registered social landlord, designed to secure the continued proper management of the landlord's land by a registered social landlord.
- (2) In drawing up its proposals the Corporation—
 - (a) shall consult the landlord and, so far as is practicable, its tenants, and
 - (b) shall have regard to the interests of all the landlord's creditors, both secured and unsecured.
- (3) The Corporation shall also consult—
 - (a) where the landlord is an industrial and provident society, the appropriate registrar, and
 - (b) where the landlord is a registered charity, the Charity Commissioners.
- (4) No proposals shall be made under which—
 - (a) a preferential debt of the landlord is to be paid otherwise than in priority to debts which are not preferential debts, or
 - (b) a preferential creditor is to be paid a smaller proportion of his preferential debt than another preferential creditor, except with the concurrence of the creditor concerned.

In this subsection references to preferential debts and preferential creditors have the same meaning as in the Insolvency Act 1986.

- (5) So far as practicable no proposals shall be made which have the effect that unsecured creditors of the landlord are in a worse position than they would otherwise be.
- (6) Where the landlord is a charity the proposals shall not require the landlord to act outside the terms of its trusts, and any disposal of housing accommodation occupied under a tenancy or licence from the landlord must be to another charity whose objects appear to the Corporation to be, as nearly as practicable, akin to those of the landlord.
- (7) The Corporation shall serve a copy of its proposals on—
 - (a) the landlord and its officers,
 - (b) the secured creditors of the landlord, and
 - (c) any liquidator, administrator, administrative receiver or receiver appointed in respect of the landlord or its land;

and it shall make such arrangements as it considers appropriate to see that the members, tenants and unsecured creditors of the landlord are informed of the proposals.

45 Effect of agreed proposals

- (1) The following provisions apply if proposals made by the Corporation under section 44 are agreed, with or without modifications, by all the secured creditors of the registered social landlord.

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

- (2) Once agreed the proposals are binding on the Corporation, the landlord, all the landlord's creditors (whether secured or unsecured) and any liquidator, administrator, administrative receiver or receiver appointed in respect of the landlord or its land.
- (3) It is the duty of—
- (a) the members of the committee where the landlord is an industrial and provident society,
 - (b) the directors where the landlord is a company registered under the Companies Act 1985 (including a company which is a registered charity), and
 - (c) the trustees where the landlord is a charitable trust,
- to co-operate in the implementation of the proposals.

This does not mean that they have to do anything contrary to any fiduciary or other duty owed by them.

- (4) The Corporation shall serve a copy of the agreed proposals on—
- (a) the landlord and its officers,
 - (b) the secured creditors of the landlord, and
 - (c) any liquidator, administrator, administrative receiver or receiver appointed in respect of the landlord or its land, and
 - (d) where the landlord is an industrial and provident society or registered charity, the appropriate registrar or the Charity Commissioners, as the case may be;
- and it shall make such arrangements as it considers appropriate to see that the members, tenants and unsecured creditors of the landlord are informed of the proposals.
- (5) The proposals may subsequently be amended with the consent of the Corporation and all the landlord's secured creditors.

Section 44(2) to (7) and subsections (2) to (4) above apply in relation to the amended proposals as in relation to the original proposals.

46 Appointment of manager to implement agreed proposals

- (1) Where proposals agreed as mentioned in section 45 so provide, the Corporation may by order under its seal appoint a manager to implement the proposals or such of them as are specified in the order.
- (2) If the landlord is a registered charity, the Corporation shall give notice to the Charity Commissioners of the appointment.
- (3) Where proposals make provision for the appointment of a manager, they shall also provide for the payment of his reasonable remuneration and expenses.
- (4) The Corporation may give the manager directions in relation to the carrying out of his functions.
- (5) The manager may apply to the High Court for directions in relation to any particular matter arising in connection with the carrying out of his functions.

A direction of the court supersedes any direction of the Corporation in respect of the same matter.

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

- (6) If a vacancy occurs by death, resignation or otherwise in the office of manager, the Corporation may by further order under its seal fill the vacancy.

47 Powers of the manager

- (1) An order under section 46(1) shall confer on the manager power generally to do all such things as are necessary for carrying out his functions.

- (2) The order may include the following specific powers—

- 1** Power to take possession of the land held by the landlord and for that purpose to take any legal proceedings which seem to him expedient.
 - 2** Power to sell or otherwise dispose of the land by public auction or private contract.
 - 3** Power to raise or borrow money and for that purpose to grant security over the land.
 - 4** Power to appoint a solicitor or accountant or other professionally qualified person to assist him in the performance of his functions.
 - 5** Power to bring or defend legal proceedings relating to the land in the name and on behalf of the landlord.
 - 6** Power to refer to arbitration any question affecting the land.
 - 7** Power to effect and maintain insurance in respect of the land.
 - 8** Power where the landlord is a body corporate to use the seal of the body corporate for purposes relating to the land.
 - 9** Power to do all acts and to execute in the name and on behalf of the landlord any deed, receipt or other document relating to the land.
 - 10** Power to appoint an agent to do anything which he is unable to do for himself or which can more conveniently be done by an agent, and power to employ and dismiss any employees.
 - 11** Power to do all such things (including the carrying out of works) as may be necessary in connection with the management or transfer of the land.
 - 12** Power to make any payment which is necessary or incidental to the performance of his functions.
 - 13** Power to carry on the business of the landlord so far as relating to the management or transfer of the land.
 - 14** Power to grant or accept a surrender of a lease or tenancy of any of the land, and to take a lease or tenancy of any property required or convenient for the landlord's housing activities.
 - 15** Power to make any arrangement or compromise on behalf of the landlord in relation to the management or transfer of the land.
 - 16** Power to do all other things incidental to the exercise of any of the above powers.
- (3) In carrying out his functions the manager acts as the landlord's agent and he is not personally liable on a contract which he enters into as manager.
- (4) A person dealing with the manager in good faith and for value is not concerned to inquire whether the manager is acting within his powers.

- (5) The manager shall, so far as practicable, consult the landlord's tenants about any exercise of his powers which is likely to affect them and inform them about any such exercise of his powers.

48 Powers of the manager: transfer of engagements

- (1) An order under section 46(1) may, where the landlord is an industrial and provident society, give the manager power to make and execute on behalf of the society an instrument transferring the engagements of the society.
- (2) Any such instrument has the same effect as a transfer of engagements under section 51 or 52 of the Industrial and Provident Societies Act 1965 (transfer of engagements by special resolution to another society or a company).

In particular, its effect is subject to section 54 of that Act (saving for rights of creditors).

- (3) A copy of the instrument, signed by the manager, shall be sent to the appropriate registrar and registered by him; and until that copy is so registered the instrument shall not take effect.
- (4) It is the duty of the manager to send a copy for registration within 14 days from the day on which the instrument is executed; but this does not invalidate registration after that time.

49 Assistance by the Corporation

- (1) The Corporation may give such assistance as it thinks fit—
- (a) to the landlord, for the purpose of preserving the position pending the making of and agreement to proposals;
 - (b) to the landlord or a manager appointed under section 46, for the purpose of carrying out any agreed proposals.
- (2) The Corporation may, in particular—
- (a) lend staff;
 - (b) pay or secure payment of the manager's reasonable remuneration and expenses;
 - (c) give such financial assistance as appears to the Corporation to be appropriate.
- (3) The following forms of assistance require the consent of the Secretary of State—
- (a) making grants or loans;
 - (b) agreeing to indemnify the manager in respect of liabilities incurred or loss or damage sustained by him in connection with his functions;
 - (c) paying or guaranteeing the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any sum borrowed (before or after the making of the order) and secured on any land disposed of.

50 Application to court to secure compliance with agreed proposals

- (1) The landlord or any creditor of the landlord may apply to the High Court on the ground that an action of the manager appointed under section 46 is not in accordance with the agreed proposals.

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

On such an application the court may confirm, reverse or modify any act or decision of the manager, give him directions or make such other order as it thinks fit.

- (2) The Corporation or any other person bound by agreed proposals may apply to the High Court on the ground that any action, or proposed action, by another person bound by the proposals is not in accordance with those proposals.

On such an application the court may—

- (a) declare any such action to be ineffective, and
- (b) grant such relief by way of injunction, damages or otherwise as appears to the court appropriate.

CHAPTER V

MISCELLANEOUS AND GENERAL PROVISIONS

Housing complaints

51 Schemes for investigation of complaints

- (1) The provisions of Schedule 2 have effect for the purpose of enabling tenants and other individuals to have complaints against social landlords investigated by a housing ombudsman in accordance with a scheme approved by the Secretary of State.
- (2) For the purposes of that Schedule a “social landlord” means—
 - (a) a registered social landlord;
 - (b) a transferee of housing pursuant to a qualifying disposal under section 135 of the Leasehold Reform, Housing and Urban Development Act 1993;
 - (c) a body which has acquired dwellings under Part IV of the Housing Act 1988 (change of landlord: secure tenants); or
 - (d) any other body which was at any time registered with the Corporation and which owns or manages publicly-funded dwellings.
- (3) In subsection (2)(d) a “publicly-funded dwelling” means a dwelling which was—
 - (a) provided by means of a grant under—
 - section 18 of this Act (social housing grant), or
 - section 50 of the Housing Act 1988, section 41 of the Housing Associations Act 1985, or section 29 or 29A of the Housing Act 1974 (housing association grant); or
 - (b) acquired on a disposal by a public sector landlord.
- (4) The Secretary of State may by order add to or amend the descriptions of landlords who are to be treated as social landlords for the purposes of Schedule 2.
- (5) Before making any such order the Secretary of State shall consult such persons as he considers appropriate.
- (6) Any such order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Orders and determinations

52 General provisions as to orders

- (1) The following provisions apply to any power of the Secretary of State under this Part to make an order.
- (2) An order may make different provision for different cases or descriptions of case.

This includes power to make different provision for different bodies or descriptions of body, different provision for different housing activities and different provision for different areas.
- (3) An order may contain such supplementary, incidental, consequential or transitional provisions and savings as the Secretary of State considers appropriate.

53 General provisions as to determinations

- (1) The following provisions apply to determinations of the Corporation or the Secretary of State under this Part.
- (2) A determination may make different provision for different cases or descriptions of case.

This includes power to make—

 - (a) different provision for different registered social landlords or descriptions of registered social landlord, and
 - (b) different provision for different housing activities and different provision for different areas;

and for the purposes of paragraph (b) 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.
- (3) In this Part a general determination means a determination which does not relate solely to a particular case.
- (4) Before making a general determination, the Corporation or the Secretary of State shall consult such bodies appearing to them to be representative of registered social landlords as they consider appropriate.
- (5) After making a general determination, the Corporation or the Secretary of State shall publish the determination in such manner as they consider appropriate for bringing the determination to the notice of the landlords concerned.

54 Determinations of the Corporation requiring approval

The Corporation shall not make—

- (a) a general determination under paragraph 16 of Schedule 1 (accounting and audit requirements for registered social landlords) or section 18 (social housing grant), or
- (b) any determination under section 27 (recovery, &c. of social housing grants), except with the approval of the Secretary of State.

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

Minor and consequential amendments

55 Minor and consequential amendments: Part I

- (1) The enactments mentioned in Schedule 3 have effect with the minor amendments specified there.
- (2) The Secretary of State may by order make such amendments or repeals of any enactment as appear to him necessary or expedient in consequence of the provisions of this Part.
- (3) Any such order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

56 Meaning of “the Corporation”

- (1) In this Part “the Corporation” means the Housing Corporation or Housing for Wales, as follows.
- (2) In relation to a registered social landlord, or a body applying for such registration, which is—
 - (a) a registered charity which has its address for the purposes of registration by the Charity Commissioners in Wales,
 - (b) an industrial and provident society which has its registered office for the purposes of the Industrial and Provident Societies Act 1965 in Wales, or
 - (c) a company registered under the Companies Act 1985 which has its registered office for the purposes of that Act in Wales,
 “the Corporation” means Housing for Wales.
- (3) In relation to any other registered social landlord or body applying for such registration, “the Corporation” means the Housing Corporation.
- (4) Nothing in this Part shall be construed as requiring the Housing Corporation and Housing for Wales to establish the same criteria for registration as a social landlord, or otherwise to act on the same principles in respect of any matter in relation to which they have functions under this Part.

57 Definitions relating to industrial and provident societies

- (1) In this Part, in relation to an industrial and provident society—

“appropriate registrar” has the same meaning as in the Industrial and Provident Societies Act 1965 (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; and

“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.
- (2) Any reference in this Part to a member of the committee of an industrial and provident society includes a co-opted member.

58 Definitions relating to charities

- (1) In this Part—
 - (a) “charity” and “trusts”, in relation to a charity, have the same meaning as in the Charities Act 1993, and “trustee” means a charitable trustee within the meaning of that Act; and
 - (b) “registered charity” means a charity which is registered under section 3 of that Act and is not an exempt charity within the meaning of that Act.
- (2) References in this Part to a company registered under the Companies Act 1985 do not include a company which is a registered charity, except where otherwise provided.

59 Meaning of “officer” of registered social landlord

- (1) References in this Part to an officer of a registered social landlord are—
 - (a) in the case of a registered charity which is not a company registered under the Companies Act 1985, to any trustee, secretary or treasurer of the charity;
 - (b) in the case of an industrial and provident society, to any officer of the society as defined in section 74 of the Industrial and Provident Societies Act 1965; and
 - (c) in the case of a company registered under the Companies Act 1985 (including such a company which is also a registered charity), to any director or other officer of the company within the meaning of that Act.
- (2) Any such reference includes, in the case of an industrial and provident society, a co-opted member of the committee of the society.

60 Meaning of “subsidiary”

- (1) In this Part “subsidiary”, in relation to a registered social landlord, means a company with respect to which one of the following conditions is fulfilled—
 - (a) the landlord is a member of the company and controls the composition of the board of directors;
 - (b) the landlord holds more than half in nominal value of the company’s equity share capital; or
 - (c) the company is a subsidiary, within the meaning of the Companies Act 1985 or the Friendly and Industrial and Provident Societies Act 1968, of another company which, by virtue of paragraph (a) or paragraph (b), is itself a subsidiary of the landlord.
- (2) For the purposes of subsection (1)(a), the composition of a company’s board of directors shall be deemed to be controlled by a registered social landlord if, but only if, the landlord, by the exercise of some power exercisable by him without the consent or concurrence of any other person, can appoint or remove the holders of all or a majority of the directorships.
- (3) In relation to a company which is an industrial and provident society—
 - (a) any reference in this section to the board of directors is a reference to the committee of management of the society; and
 - (b) the reference in subsection (2) to the holders of all or a majority of the directorships is a reference—
 - (i) to all or a majority of the members of the committee, or

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

(ii) if the landlord is himself a member of the committee, such number as together with him would constitute a majority.

(4) In the case of a registered social landlord which is a body of trustees, references in this section to the landlord are to the trustees acting as such.

61 Meaning of “associate”

(1) In this Part “associate”, in relation to a registered social landlord, means—

- (a) any body of which the landlord is a subsidiary, and
- (b) any other subsidiary of such a body.

(2) In this section “subsidiary” has the same meaning as in the Companies Act 1985 or the Friendly and Industrial and Provident Societies Act 1968 or, in the case of a body which is itself a registered social landlord, has the meaning given by section 60.

62 Members of a person’s family: Part I

(1) A person is a member of another’s family within the meaning of this Part 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 purpose 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, and
- (c) the stepchild of a person shall be treated as his child.

63 Minor definitions: Part I

(1) In this Part—

“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;

“fully mutual”, in relation to a housing association, and “co-operative housing association” have the same meaning as in the Housing Associations Act 1985 (see section 1(2) of that Act);

“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 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 occupied or intended to be occupied as a separate dwelling, and
- (b) any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

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

“housing accommodation” includes flats, lodging-houses and hostels;

“housing activities” means, in relation to a registered social landlord, all its activities in pursuance of the purposes, objects and powers mentioned in or specified under section 2;

“information” includes accounts, estimates and returns;

“local authority” has the same meaning as in the Housing Associations Act 1985;

“long tenancy” has the same meaning as in Part V of the Housing Act 1985;

“modifications” includes additions, alterations and omissions and cognate expressions shall be construed accordingly;

“notice” means notice in writing;

“public sector landlord” means any of the authorities or bodies within section 80(1) of the Housing Act 1985 (the landlord condition for secure tenancies);

“registrar of companies” has the same meaning as in the Companies Act 1985;

“statutory tenancy” has the same meaning as in the Housing Act 1985.

- (2) References in this Part to the provision of a dwelling or house include the provision of a dwelling or house—
- (a) by erecting the dwelling or house, or converting a building into dwellings or a house, or
 - (b) by altering, enlarging, repairing or improving an existing dwelling or house; and references to a dwelling or house provided by means of a grant or other financial assistance are to its being so provided directly or indirectly.

64 Index of defined expressions: Part I

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

appointed person (in relation to inquiry into affairs of registered social landlord)	paragraph 20 of Schedule 1
appropriate registrar (in relation to an industrial and provident society)	section 57(1)
associate (in relation to a registered social landlord)	section 61(1)
assured tenancy	section 230
assured agricultural occupancy	section 230
assured shorthold tenancy	section 230
charity	section 58(1)(a)
committee member (in relation to an industrial and provident society)	section 57(2)
company registered under the Companies Act 1985	section 58(2)

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co-operative housing association	section 63
co-opted member (of committee of industrial and provident society)	section 57(1)
the Corporation	section 56
disposal proceeds fund	section 24
dwelling	section 63
enactment	section 230
fully mutual housing association	section 63
hostel	section 63
house	section 63
housing accommodation	section 63
housing activities	section 63
housing association	section 230
industrial and provident society	section 2(1)(b)
information	section 63
lease	section 229
local authority	section 63
long tenancy	section 63
member of family	section 62
modifications	section 63
notice	section 63
officer of registered social landlord	section 59
provision (in relation to dwelling or house)	section 63(2)
public sector landlord	section 63
register, registered and registration (in relation to social landlords)	section 1
registered charity	section 58(1)(b)
registrar of companies	section 63
relevant disposal which is not an exempted disposal (in sections 11 to 14)	section 15
secure tenancy	section 230
social housing grant	section 18(1)
statutory tenancy	section 63
subsidiary (in relation to a registered social landlord)	section 60(1)
trustee and trusts (in relation to a charity)	section 58(1)(a)
