



Housing Associations Act 1985

1985 CHAPTER 69

PART I

REGULATION OF HOUSING ASSOCIATIONS

Inquiries into affairs of housing associations

28 Inquiry

- (1) The Housing Corporation may appoint a person (not a person who is, or at any time has been, a member of the Corporation's staff) to conduct an inquiry into the affairs of a registered housing association.
- (2) The appointed person may by notice in writing served on—
 - (a) the association concerned, or
 - (b) any person who is, or has been, an officer, agent or member of the association,require the association or person to produce to him such books, accounts and other documents relating to the association's business and to give him such other information so relating, as he considers necessary for the purposes of the inquiry.
- (3) An association or other person who fails without reasonable excuse to comply with the requirements of a notice under subsection (2) commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.
- (4) On completion of the inquiry the appointed person shall make a report to the Corporation on such matters and in such form as the Corporation may specify.
- (5) In this section "agent" includes banker, solicitor and auditor; but nothing in this section requires the disclosure—
 - (a) by a solicitor, of a privileged communication made to him in his capacity as solicitor, or
 - (b) by a housing association's banker, of information as to the affairs of any of their other customers.

29 Extraordinary audit for purposes of inquiry

- (1) For the purposes of an inquiry under section 28 the Housing Corporation may require the accounts and balance sheet of the association concerned, or such of them as the Corporation may specify, to be audited by a qualified auditor appointed by the Corporation.
- (2) A person is a qualified auditor for this purpose if he is under section 7(1) of the Friendly and Industrial and Provident Societies Act 1968 a qualified auditor for the purposes of that Act, or is under section 7(2) of that Act a qualified auditor in relation to the association concerned.
- (3) On completion of the audit the appointed auditor shall make a report to the Corporation on such matters and in such form as the Corporation may specify.
- (4) The expenses of the audit, including the remuneration of the auditor, shall be paid by the Corporation.
- (5) An audit under this section is additional to, and does not affect, any audit made or to be made under any other enactment.

30 General powers exercisable as a result of inquiry or audit

- (1) Where the Housing Corporation is satisfied, as the result of an inquiry under section 28 or an audit under section 29, that there has been misconduct or mismanagement in the affairs of a registered housing association, it may—
 - (a) by order remove any member of the committee of the association, or any officer, agent or employee of the association, who has been responsible for or privy to the misconduct or mismanagement or has by his conduct contributed to it or facilitated it;
 - (b) by order suspend such a person for up to six months, pending determination whether he should be removed;
 - (c) order any bank or other person who holds money or securities on behalf of the association not to part with the money or securities without the approval of the Corporation;
 - (d) by order restrict the transactions which may be entered into, or the nature or amount of the payments which may be made, in the administration of the association without the approval of the Corporation.
- (2) Before making an order under subsection (1)(a) the Corporation shall give at least 14 days' notice of its intention to do so—
 - (a) to the person it intends to remove, and
 - (b) to the association concerned.
- (3) Notice under subsection (2) may be given by post, and if so given to the person whom the Corporation intends to remove may be addressed to his last known address in the United Kingdom.
- (4) A person who is ordered to be removed under subsection (1)(d) or suspended under subsection (1)(b) may appeal against the order to the High Court or, as the case may be, the Court of Session.
- (5) Where a person is suspended under subsection (1)(b), the Corporation may give directions with respect to the performance of his functions and otherwise as to matters arising from the suspension.

- (6) A person who contravenes an order under subsection (1)(c) commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months or both ; but proceedings for such an offence may be brought in England and Wales only by or with the consent of the Corporation or the Director of Public Prosecutions.

31 Exercise of powers under ss. 28 to 30 in relation to registered charities

- (1) The Housing Corporation may exercise its powers under sections 28 to 30 (inquiry, audit, &c.) in relation to an association which is a registered charity only if the association has, at any time before the powers are exercised, received a grant or loan under—
- section 41 (housing association grants),
 - section 54 or 55 (revenue deficit grants or hostel deficit grants),
 - section 58(2) (grants or loans by local authorities),
 - section 79 (loans by Housing Corporation),
 - section 31 of the Housing Act 1974 (management grants), or
 - any enactments mentioned in paragraph 2 or 3 of Schedule 1 (pre-1974 grants and certain loans).
- (2) In relation to such an association sections 28 to 30 have effect with the following adaptations—
- (a) references to an officer, agent or member, or to a member of the committee, include a trustee of the association;
 - (b) references to the association's business are confined to its housing activities;
 - (c) references to the association's accounts do not include revenue accounts which do not relate to its housing activities, except so far as such accounts are necessary for the auditing of revenue accounts which do so relate or of the association's balance sheet;
 - (d) a person is a qualified auditor for the purposes of section 29 (extraordinary audit) only if he is an auditor qualified for the purposes of paragraph 3 of Schedule 3.
- (3) In relation to such an association the powers conferred on the Corporation by—
- section 28(1) (appointment of person to inquire into association's affairs), and
 - section 30(1)(a) and (b) (removal of person in connection with misconduct or mismanagement and suspension with a view to removal),
- are exercisable only after consultation with the Charity Commissioners.

32 Power to direct transfer of land to another housing association or the Housing Corporation

- (1) Where, as the result of an inquiry under section 28 or an audit under section 29. the Housing Corporation is satisfied as regards a registered housing association which is a society registered under the 1965 Act—
- (a) that there has been misconduct or mismanagement in the administration of the association, or
 - (b) that the management of the land belonging to the association would be improved if the land belonging to the association were transferred in accordance with the provisions of this section,

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

the Corporation may, with the consent of the Secretary of State, direct the association to make such a transfer.

- (2) Where the association concerned is a charity, the Housing Corporation may only direct a transfer to be made to another registered housing association—
 - (a) which is also a charity, and
 - (b) the objects of which appear to the Corporation to be, as nearly as practicable, akin to those of the association concerned.
- (3) In any other case the Corporation may direct a transfer to be made to the Corporation or to another registered housing association.
- (4) A transfer in pursuance of a direction under this section shall be made on the terms that the transferee will pay or undertake to pay to the association concerned such sum (if any) as will be necessary to defray all its proper debts and liabilities (including debts and liabilities secured on the land) after taking into account any money or other assets belonging to the association.
- (5) If it appears to the Corporation likely that the association concerned will as a result of the transfer be dissolved under the 1965 Act, the Corporation shall secure that the costs of the dissolution are taken into account in determining the sum payable to the association under subsection (4).