



Housing Associations Act 1985

1985 CHAPTER 69

PART III

THE HOUSING CORPORATION

Constitution and other general matters

74 The Housing Corporation

- (1) This Part has effect with respect to the Housing Corporation, which is referred to in this Part as " the Corporation " .
- (2) The provisions of Schedule 6 have effect with respect to the constitution and proceedings of, and other matters relating to, the Corporation.

75 General functions of the Corporation

- (1) The Corporation has the following general functions—
 - (a) to promote and assist the development of registered housing associations and unregistered self-build societies;
 - (b) to facilitate the proper performance of the functions, and to publicise the aims and principles, of registered housing associations and unregistered self-build societies;
 - (c) to maintain a register of housing associations and to exercise supervision and control over registered housing associations;
 - (d) to act as the Secretary of State's agent, to such extent as he may require, with respect to the consideration of applications for, and the payment of grants to, registered housing associations ;
 - (e) to undertake, to such extent as the Corporation considers necessary, the provision (by construction, acquisition, conversion, improvement or otherwise) of dwellings for letting or for sale and of hostels, and the management of dwellings or hostels so provided.

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- (2) The Corporation shall exercise its general functions subject to and in accordance with the provisions of this Act.
- (3) Subsection (1) is without prejudice to specific functions conferred on the Corporation by or under this Act.
- (4) The Corporation may do such things and enter into such transactions as are incidental to or conducive to the exercise of any of its functions, general or specific, under this Act.

76 Directions by the Secretary of State

- (1) The Secretary of State may give directions to the Corporation as to the exercise of its functions.
- (2) A direction as to the terms of loans made under section 79 (lending powers of Corporation) requires the consent of the Treasury.
- (3) Directions may be of a general or particular character and may be varied or revoked by subsequent directions.
- (4) Non-compliance with a direction does not invalidate a transaction between a person and the Corporation unless the person had actual notice of the direction.

77 Advisory service

- (1) The Corporation may provide an advisory service for the purpose of giving advice on legal, architectural and other technical matters to housing associations (whether registered or unregistered) and to persons who are forming a housing association or are interested in the possibility of doing so.
- (2) The Corporation may make charges for the service.

78 Annual report

- (1) The Corporation shall, as soon as possible after the end of each financial year, make a report to the Secretary of State on the exercise of its functions during the year.
- (2) It shall include in the report a copy of its audited accounts and shall set out in the report any directions given to it by the Secretary of State during the year.
- (3) The Secretary of State shall lay a copy of the report before each House of Parliament.

Corporation's powers with respect to grants and loans

79 Lending powers

- (1) The Corporation may lend to—
 - a registered housing association,
 - an unregistered self-build society,
 - a subsidiary of the Corporation, or
 - any other body in which the Corporation holds an interest,

for the purpose of enabling the body to meet the whole or part of expenditure incurred or to be incurred by it in carrying out its objects.

- (2) The Corporation may lend to an individual for the purpose of assisting him to acquire from the Corporation, or from any such body as is mentioned in subsection (1), a legal estate or interest in a dwelling which he intends to occupy.
- (3) A loan under this section may be by way of temporary loan or otherwise, and the terms of a loan made under subsection (1) may include (though the terms of a loan made under subsection (2) may not) terms for preventing repayment of the loan or part of it before a specified date without the consent of the Corporation.
- (4) The terms of a loan under this section shall, subject to subsection (3) and to any direction under section 76 (general power of Secretary of State to give directions), be such as the Corporation may determine, either generally or in a particular case.

80 Security for loans to unregistered self-build societies

- (1) Where the Corporation—
 - (a) makes a loan to an unregistered self-build society under section 79(1); and
 - (b) under a mortgage or heritable security entered into by the society to secure the loan has an interest as mortgagee or creditor in land belonging to the society,it may, with the written consent of the Secretary of State, give the society directions with respect to the disposal of the land.
- (2) The society shall comply with directions so given so long as the Corporation continues to have such an interest in the land.
- (3) Directions so given may be varied or revoked by subsequent directions given with the like consent.
- (4) The Secretary of State shall not consent to the Corporation's giving directions under this section requiring a society to transfer its interest in land to the Corporation, or to any other person, unless he is satisfied that arrangements have been made which will secure that the members of the society receive fair treatment in connection with the transfer.

81 Further advances in case of disposal on shared ownership lease

Where—

- (a) a lease of a dwelling, granted otherwise than in pursuance of the provisions of Part V of the Housing Act 1985 (the right to buy) relating to shared ownership leases, contains a provision to the like effect as that required by paragraph 1 of Schedule 8 to that Act (terms of shared ownership lease: right of tenant to acquire additional shares), and
 - (b) the Corporation has, in exercise of any of its powers, left outstanding or advanced any amount on the security of the dwelling,
- that power includes power to advance further amounts for the purpose of assisting the tenant to make payments in pursuance of that provision.

82 Loans made under s. 2 of the Housing Act 1964

Schedule 7 (further powers of Corporation with respect to land of certain housing associations) applies where a loan has been made to a housing association under section 2 of the Housing Act 1964 and the loan has not been repaid.

83 Power to guarantee loans

- (1) The Corporation may, with the consent of the Secretary of State given with the approval of the Treasury, guarantee the repayment of the principal of, and the payment of interest on, sums borrowed by—
 - registered housing associations,
 - unregistered self-build societies, or
 - other bodies in which the Corporation holds an interest.
- (2) Where the Corporation gives such a guarantee, it may impose such terms and conditions as it thinks fit.
- (3) The aggregate amount outstanding in respect of—
 - (a) loans for which the Corporation has given a guarantee under this section, and
 - (b) payments made by the Corporation in meeting an obligation arising by virtue of such a guarantee and not repaid to the Corporation,shall not exceed £300 million or such greater sum not exceeding £500 million as the Secretary of State may specify by order made with the approval of the Treasury.
- (4) An order under subsection (3) shall be made by statutory instrument and no such order shall be made unless a draft of it has been laid before and approved by the House of Commons.

84 Agreements to indemnify certain lenders: England and Wales

- (1) The Corporation may, with the approval of the Secretary of State, enter into an agreement with—
 - (a) a building society lending on the security of a house, or
 - (b) a recognised body making a relevant advance on the security of a house,whereby, in the event of default by the mortgagor, and in circumstances and subject to conditions specified in the agreement, the Corporation binds itself to indemnify the society or body in respect of the whole or part of the mortgagor's outstanding indebtedness and any loss or expense falling on the society or body in consequence of the mortgagor's default.
- (2) The agreement may also, if the mortgagor is made party to it, enable or require the Corporation in specified circumstances to take a transfer of the mortgage and assume rights and liabilities under it, the building society or recognised body being then discharged in respect of them.
- (3) The transfer may be made to take effect—
 - (a) on terms provided for by the agreement (including terms involving substitution of a new mortgage agreement or modification of the existing one), and

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- (b) so that the Corporation is treated as acquiring (for and in relation to the purposes of the mortgage) the benefit and burden of all preceding acts, omissions and events.
- (4) The Secretary of State may approve particular agreements or give notice that particular forms of agreement have his approval, and in either case may make his approval subject to conditions.
- (5) The Secretary of State shall, before giving notice that a particular form of agreement has his approval, consult—
 - (a) in the case of a form of agreement with a building society, the Chief Registrar of Friendly Societies and such organisations representative of building societies and local authorities as he thinks expedient, and
 - (b) in the case of a form of agreement with a recognised body, such organisations representative of such bodies and local authorities as he thinks expedient.
- (6) Section 16(3) and (5) of the Restrictive Trade Practices Act: 1976 (recommendations by services supply associations to members) does not apply to recommendations made to building societies or recognised bodies about the making of agreements under this section, provided that the recommendations are made with the approval of the Secretary of State, which may be withdrawn at any time on one month's notice.

85 Meaning of " recognised body " and " relevant advance "

- (1) The expressions " recognised body " and " relevant advance " in section 84 (agreements to indemnify certain lenders) shall be construed in accordance with the following provisions.
- (2) A " recognised body " means a body specified, or of a class or description specified, in an order made by statutory instrument by the Secretary of State with the consent of the Treasury.
- (3) Before making such an order varying or revoking an order previously made, the Secretary of State shall give an opportunity for representations to be made on behalf of a recognised body which, if the order were made, would cease to be such a body.
- (4) A " relevant advance " means an advance made to a person whose interest in the dwelling is or was acquired by virtue of a conveyance of the freehold or an assignment of a long lease, or a grant of a long lease by—
 - a local authority,
 - a new town corporation,
 - an urban development corporation,
 - the Development Board for Rural Wales,
 - the Corporation, or
 - a registered housing association.
- (5) In subsection (4) " long lease " has the same meaning as in Part V of the Housing Act 1985 (the right to buy).

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86 Agreements to indemnify building societies: Scotland

- (1) The Corporation may, with the approval of the Secretary of State, enter into an agreement with a building society under which the Corporation binds itself to indemnify the building society in respect of—
 - (a) the whole or part of any outstanding indebtedness of a borrower; and
 - (b) loss or expense to the building society resulting from the failure of the borrower duly to perform any obligation imposed on him by the heritable security.
- (2) The agreement may also, where the borrower is made party to it, enable or require the Corporation in specified circumstances to take an assignation of the rights and liabilities of the building society under the heritable security.
- (3) Approval of the Secretary of State under subsection (1) may be given generally in relation to agreements which satisfy specified requirements, or in relation to individual agreements, and with or without conditions, as he thinks fit, and such approval may be withdrawn at any time on one month's notice.
- (4) Before issuing any general approval under subsection (1) the Secretary of State shall consult with such bodies as appear to him to be representative of islands and district councils, and of building societies, and also with the Corporation and with the Chief Registrar of Friendly Societies.
- (5) Section 16(3) and (5) of the Restrictive Trade Practices Act 1976 (recommendations by services supply associations to members) does not apply to recommendations made to building societies about the making of agreements under this section provided that the recommendations are made with the approval of the Secretary of State.

87 Grants towards expenses in promoting or assisting registered housing associations

- (1) The Corporation may make grants to registered housing associations and other voluntary organisations towards expenses incurred by them—
 - (a) in encouraging and giving advice on the formation of housing associations which would be eligible for registration under Part I, and
 - (b) in providing services for, and giving advice on the running of, registered housing associations.
- (2) Any such grant may be made subject to such conditions as the Corporation may determine.
- (3) The exercise of the Corporation's powers under subsection (1) or (2) requires the consent of the Secretary of State and the Treasury.
- (4) In this section " voluntary organisation " means an organisation whose activities are not carried on for profit.

Corporation's powers with respect to land and works

88 Acquisition of land

- (1) The Corporation may acquire land by agreement for the purpose of—

- (a) selling or leasing it to a registered housing association or an unregistered self-build society, or
 - (b) providing dwellings (for letting or for sale) or hostels,
- and may be authorised by the Secretary of State to acquire land compulsorily for any such purpose.
- (2) Land may be so acquired by the Corporation notwithstanding that it is not immediately required for any such purpose.
- (3) In relation to a compulsory purchase of land by the Corporation under this section—
- (a) in England and Wales, the Acquisition of Land Act 1981 applies;
 - (b) in Scotland, the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 applies as if the Corporation were a local authority and as if this section were contained in an Act in force immediately before the commencement of that Act.
- (4) For the purposes of the purchase of land in Scotland by agreement by the Corporation—
- (a) the Lands Clauses Acts (except so much of them as relates to the acquisition of land otherwise than by agreement, the provisions relating to access to the special Act and sections 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845), and
 - (b) sections 6 and 70 to 78 of the Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the Mines (Working Facilities and Support) Act 1923),
- are hereby incorporated with this section, and in construing those Acts for the purposes of this section this section shall be deemed to be the special Act and the Corporation shall be deemed to be the promoters of the undertaking or company, as the case may require.
- (5) In Scotland the Corporation may (without prejudice to their own power to acquire land compulsorily) request the Scottish Special Housing Association to acquire land compulsorily on its behalf (as provided in section 175(2) of the Housing (Scotland) Act 1966) for any purpose for which the Corporation may purchase land compulsorily.

89 Provision of dwellings or hostels and clearance, management and development of land

- (1) The Corporation may provide or improve dwellings or hostels on land belonging to it
- (2) The Corporation may clear land belonging to it and carry out other work on the land to prepare it as a building site or estate, including—
- (a) the laying out and construction of streets or roads and open spaces, and
 - (b) the provision of sewerage facilities and supplies of gas, electricity and water.
- (3) The Corporation may repair, maintain and insure buildings or works on land belonging to it, may generally deal in the proper course of management with such land and buildings or works on it, and may charge for the tenancy or occupation of such land, buildings or works.
- (4) The Corporation may carry out such operations on, and do such other things in relation to, land belonging to it as appear to it to be conducive to facilitating the provision or improvement of dwellings or hostels on the land—

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- (a) by the Corporation itself, or
- (b) by a registered housing association or unregistered self build society.

(5) In the exercise of its powers under subsection (4) the Corporation may carry out any development ancillary to or in connection with the provision of dwellings or hostels, including development which makes provision for buildings or land to be used for commercial, recreational or other non-domestic purposes.

90 Disposal of land

(1) The Corporation may dispose of land in respect of which it has not exercised its powers under section 89(1) (provision or improvement of dwellings or hostels) and on which it has not carried out any such development as is mentioned in section 89(5) (ancillary development) to—

- a registered housing association,
- an unregistered self-build society,
- a subsidiary of the Corporation, or
- any other body in which the Corporation holds an interest.

(2) The Corporation may dispose of land on which dwellings or hostels have been provided or improved in exercise of its powers under section 89 to—

- a registered housing association,
- a local authority,
- a new town corporation,
- the Scottish Special Housing Association,
- the Development Board for Rural Wales, or
- a subsidiary of the Corporation.

(3) The Corporation may sell or lease individual dwellings to persons for their own occupation ; but where the dwelling concerned was acquired by compulsory purchase under section 88(1), it shall not be disposed of under this subsection without the written consent of the Secretary of State.

(4) The Corporation may dispose of a building or land intended for use for commercial, recreational or other non-domestic purposes in respect of which development has been carried out by virtue of section 89 ; but no such building or land shall be disposed of for less than the best consideration it commands except with the written consent of the Secretary of State.

(5) The Corporation may dispose of land which is not required for the purposes for which it was acquired; but where the land—

- (a) was acquired compulsorily by, or on behalf of, the Corporation or by a local housing authority who transferred it to the Corporation, or
- (b) is disposed of (otherwise than for use as, or in connection with, a highway or street) for less than the best consideration it commands,

the Corporation shall not dispose of the land except with the written consent of the Secretary of State.

(6) The Corporation may not dispose of land except in accordance with the provisions of this section.

91 Protection of persons deriving title under transactions requiring consent

Where the Corporation purport to acquire or dispose of land—

- (a) in favour of a person claiming under the Corporation the transaction is not invalid by reason that any consent of the Secretary of State which is required has not been given, and
- (b) a person dealing with the Corporation, or with a person claiming under the Corporation, shall not be concerned to see or inquire whether any such consent has been given.

The Corporation's finances

92 Borrowing powers

- (1) The Corporation may borrow from the Secretary of State, and the Secretary of State may lend to the Corporation, by way of temporary loan or otherwise, such sums in sterling as the Corporation may require.
- (2) The Corporation may, with the consent of the Secretary of State or in accordance with a general authorisation given by him, borrow temporarily by overdraft or otherwise such sums in sterling as the Corporation may require.
- (3) The Corporation may, with the consent of the Secretary of State, borrow—
 - (a) from the European Investment Bank or the Commission of the European Communities, sums in any currency, and
 - (b) from any other person, sums in a currency other than sterling.
- (4) A loan made to the Corporation by the Secretary of State shall be repaid to him at such times and by such methods, and interest on the loan shall be paid to him at such rates and at such times, as he may from time to time determine.
- (5) The Treasury may issue to the Secretary of State out of the National Loans Fund such sums as are necessary to enable him to make loans to the Corporation in pursuance of this section ; and sums received by the Secretary of State in pursuance of subsection (4) shall be paid into that Fund.
- (6) The Secretary of State may act under this section only with the approval of the Treasury.

93 Limit on borrowing

- (1) The Corporation has only the borrowing powers conferred by section 92 and those powers are exercisable subject to the following limit.
- (2) The aggregate amount outstanding by way of principal of—
 - (a) advances made to the Corporation under section 9 of the Housing Act 1964 before 18th September 1974 (when that section was repealed),
 - (b) advances made to housing associations before 1st April 1975 in respect of which the rights and obligations of the Secretary of State were then transferred to the Corporation by section 34 of the Housing Act 1974,
 - (c) money borrowed by the Corporation under section 92, and
 - (d) money borrowed by a subsidiary of the Corporation otherwise than from the Corporation,

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shall not exceed £2,500 million or such greater sum not exceeding £3,000 million as the Secretary of State may specify by order made with the consent of the Treasury.

- (3) An order under subsection (2) shall be made by statutory instrument and no such order shall be made unless a draft of it has been laid before and approved by the House of Commons.
- (4) In ascertaining the limit imposed by subsection (2), interest payable on a loan made by the Secretary of State to the Corporation which, with the approval of the Treasury, is deferred and treated as part of the loan, shall, so far as outstanding, be treated as outstanding by way of principal.
- (5) The power of the Corporation to borrow from a subsidiary of the Corporation is not affected by subsection (1) and borrowing from such a subsidiary shall be left out of account for the purposes of subsection (2).

94 Treasury guarantees of borrowing

- (1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of and the payment of interest on and the discharge of any other financial obligation in connection with sums which the Corporation borrows from a person other than the Secretary of State.
- (2) Immediately after a guarantee is given the Treasury shall lay a statement of the guarantee before each House of Parliament.
- (3) Any sums required by the Treasury for fulfilling the guarantee shall be charged on and issued out of the Consolidated Fund.
- (4) If any sums are so issued, the Corporation shall make to the Treasury, at such times and in such manner as the Treasury may from time to time direct—
 - (a) payments of such amounts as the Treasury so direct in or towards repayment of the sums so issued, and
 - (b) payments of interest, at such rate as the Treasury so direct, on what is outstanding for the time being in respect of sums so issued.
- (5) Sums received by the Treasury in pursuance of subsection (4) shall be paid into the Consolidated Fund.
- (6) Where a sum is issued for fulfilling a guarantee given under this section, the Treasury shall, as soon as possible after the end of each financial year, beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged, lay before each House of Parliament a statement relating to the sum.

95 Grants to Corporation

- (1) The Secretary of State may make such grants to the Corporation as appear to him to be required to enable the Corporation to meet the expenses incurred by it in the exercise of its functions.
- (2) A grant may be made subject to such conditions as the Secretary of State may determine.
- (3) The Secretary of State may act under this section only with the consent of the Treasury.

96 General financial provisions

- (1) The Corporation may turn its resources to account so far as they are not required for the exercise of its functions.
- (2) If for an accounting year the revenues of the Corporation exceed the total sums properly chargeable to revenue account, the Corporation shall apply the excess in such manner as the Secretary of State may, after consultation with the Corporation, direct; and the Secretary of State may direct that the whole or part of the excess be paid to him.
- (3) The Secretary of State may give directions to the Corporation as to matters relating to—
 - (a) the establishment or management of reserves,
 - (b) the carrying of sums to the credit of reserves, or
 - (c) the application of reserves for the purposes of the Corporation's functions.
- (4) The Secretary of State may, after consultation with the Corporation, direct the Corporation to pay to him the whole or part of any sums for the time being standing to the credit of reserves of the Corporation or being of a capital nature and not required for the exercise of the Corporation's functions.
- (5) The Secretary of State may act under this section only with the approval of the Treasury.

97 Accounts and audit

- (1) The Corporation shall keep proper accounts and proper records in relation to the accounts and shall prepare in respect of each financial year annual accounts in such form as the Secretary of State may, with the approval of the Treasury, direct.
- (2) The accounts of the Corporation for each financial year shall be audited by a qualified accountant appointed for the purpose by the Secretary of State.
- (3) As soon as the annual accounts of the Corporation for a financial year have been audited, the Corporation shall send to the Secretary of State a copy of the accounts prepared by it for the year in accordance with this section, together with a copy of any report made on them by the auditor.
- (4) The Secretary of State shall prepare in respect of each financial year, in such form and manner as the Treasury may direct, an account of—
 - (a) the sums issued to him and lent to the Corporation, and
 - (b) sums received by him from the Corporation and paid into the National Loans Fund in respect of the principal and interest on sums so lent, or on sums advanced to the Corporation under section 9 of the Housing Act 1964,and shall transmit the accounts so prepared by him to the Comptroller and Auditor General on or before 30th November in the following financial year.
- (5) The Comptroller and Auditor General shall examine and certify the accounts prepared by the Secretary of State and lay before each House of Parliament copies of the accounts together with his report on them.
- (6) In this section " qualified accountant " means a person who is a member, or a firm all the partners in which are members, of one or more of the following bodies—
 - (a) the Institute of Chartered Accountants in England and Wales;
 - (b) the Institute of Chartered Accountants in Scotland ;

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- (c) the Association of Certified Accountants ;
- (d) the Institute of Chartered Accountants in Ireland ;
- (e) any other body of accountants established in the United Kingdom and recognised for the purposes of section 389(1)(a) of the Companies Act 1985.

Acquisition of securities and control of subsidiaries

98 Acquisition of securities and promotion of body corporate

- (1) The Corporation may with the consent of the Secretary of State—
 - (a) subscribe for or acquire securities of a body corporate, and
 - (b) promote or participate in the promotion of a body corporate.
- (2) In this section " securities " means shares, stock, debenture stock and other securities of a like nature.

99 Control of subsidiaries

- (1) The Corporation shall exercise its control over its subsidiaries so as to secure that no subsidiary—
 - (a) engages in an activity which the Corporation is not empowered to carry on, or
 - (b) engages in an activity in a manner in which the Corporation itself could not engage by reason of a direction given to it under section 76 (directions by Secretary of State).
- (2) The Corporation shall also exercise its control over its subsidiaries so as to secure that no subsidiary of its—
 - (a) borrows money from a person other than the Corporation, or
 - (b) raises money by the issue of shares or stock to a person other than the Corporation,
 without the consent of the Secretary of State.

Supplementary provisions

100 Scottish Special Housing Association may act as agents for Corporation in Scotland

The Corporation may, on such terms and conditions as may be agreed between it and the Scottish Special Housing Association, authorise the Association to act in Scotland as the agents of the Corporation for the purpose of carrying out any of the functions vested in the Corporation under—

- (a) section 77 (advisory service).
- (b) sections 88 and 89 (powers with respect to land and works), or
- (c) paragraph 5 of Schedule 7 (schemes for provision of housing accommodation in place of a housing association).

101 Minor definitions

In this Part—

" building society" means a building society within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967 ;

" financial year " means the period of 12 months ending with the 31st March ;

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

" subsidiary " has the same meaning as in the Companies Act.

102 Index of defined expressions: Part III

The following Table shows provisions defining or ex-plaining expressions used in this Part (other than provision defining or explaining an expression in the same section paragraph):—

building society	section 101
the Companies Act	section 106
dwelling	section 106
financial year	section 101
heritable security	section 106
highway (in relation to Scotland)	section 101
hostel	section 106
housing association	section 1(1)
local authority	section 106
local housing authority	section 104
new town corporation	section 106
recognised body	section 85(2)
registered (in relation to a housing association)	section 3(2)
relevant advance	section 85(4;
self-build society	section 1(3)
subsidiary	section 101
unregistered (in relation to a housing association)	section 3(2)
urban development corporation	section 106