



# Local Government and Housing Act 1989

## 1989 CHAPTER 42

### PART VI

#### HOUSING FINANCE

##### *Housing accounts*

#### 74 Duty to keep Housing Revenue Account

- (1) A local housing authority shall keep, in accordance with proper practices, an account, called the “Housing Revenue Account”, of sums falling to be credited or debited in respect of—
- (a) houses and other buildings which have been provided under Part II of the Housing Act 1985 (provision of housing);
  - (b) land which has been acquired or appropriated for the purposes of that Part;
  - (c) houses purchased under section 192 of that Act (purchase of house found on appeal against repair notice to be unfit and beyond repair at reasonable cost);
  - (d) dwellings in respect of which a local authority have received assistance under section 1 or section 4(2A) of the Housing (Rural Workers) Act 1926;
  - (e) any property which—
    - (i) with the consent of the Secretary of State given under section 417(1) of the Housing Act 1985,
    - (ii) with the consent of a Minister given under section 50(1)(e) of the Housing (Financial Provisions) Act 1958, or
    - (iii) by virtue of section 50(2) of that Act (houses vesting in local authority on default of another person),was brought within the corresponding account kept under Part XIII of the Housing Act 1985 for years beginning before 1st April 1990; and
  - (f) such land, houses or other buildings not within the preceding paragraphs as the Secretary of State may direct.

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- (2) References in subsection (1) above and the other provisions of this Part to provisions of the Housing Act 1985 include, where the context so admits, references to the corresponding provisions of earlier enactments; and the reference in paragraph (b) of that subsection to land acquired for the purposes of Part II of that Act includes—
- (a) land which a local authority were deemed to have acquired under Part V of the Housing Act 1957 by virtue of section 57(6) of that Act (land acquired for re-development in pursuance of re-development plan) before the repeal of that section on 25th August 1969; and
  - (b) any structures on such land which were made available to a local authority under section 1 of the Housing (Temporary Accommodation) Act 1944 (prefabs).
- (3) Paragraphs (a) to (e) of subsection (1) above shall not apply to—
- (a) land, houses or other buildings disposed of by the authority;
  - (b) land acquired by the authority for the purpose of disposing of houses provided, or to be provided, on the land, or of disposing of the land to a person who intends to provide housing accommodation on it;
  - (c) houses provided by the authority on land so acquired; or
  - (d) such land, houses or other buildings as the Secretary of State may direct;
- and paragraph (a) of that subsection shall not apply to houses and other buildings provided on or before 6th February 1919.
- (4) A local housing authority not possessing property to which subsection (1) above applies shall nevertheless keep a Housing Revenue Account unless the Secretary of State consents to their not doing so and they comply with such conditions (if any) as may be specified in the consent.
- (5) In this Part—
- (a) references to the houses or other property of an authority within the authority's Housing Revenue Account are references to the houses, dwellings or other property to which subsection (1) above for the time being applies; and
  - (b) references (however expressed) to a disposal are references to a conveyance of the freehold, or a grant or assignment of a lease (other than a shared ownership lease) which is a long tenancy within the meaning given by section 115 of the Housing Act 1985.
- (6) Sections 417 to 420 of, and Schedule 14 to, the Housing Act 1985 (which are superseded by this section, sections 75 to 78 below and Schedule 4 to this Act) shall cease to have effect.

## **75 The keeping of the Housing Revenue Account**

Schedule 4 to this Act shall have effect with respect to the keeping of a local housing authority's Housing Revenue Account, as follows—

- Part I - Credits to the account.
- Part II - Debits to the account.
- Part III - Special cases.
- Part IV - Supplementary provisions.

## **76 Duty to prevent debit balance on Housing Revenue Account**

- (1) This section applies where for any year (“the relevant year”) a local housing authority who are required to keep a Housing Revenue Account possess any houses or other property within the account.
- (2) The authority shall, during the months of January and February immediately preceding the relevant year, formulate proposals which satisfy the requirements of subsection (3) below and relate to—
  - (a) the income of the authority for the year from rents and other charges in respect of houses and other property within their Housing Revenue Account;
  - (b) the expenditure of the authority for the year in respect of the repair, maintenance, supervision and management of such property; and
  - (c) such other matters connected with the exercise of the authority’s functions in relation to such property as the Secretary of State may direct.
- (3) Proposals formulated by the authority under subsection (2) above satisfy the requirements of this subsection at any time if, on the assumption that the following will prove correct, namely—
  - (a) the best assumptions that they are able to make at that time as to all matters which may affect the amounts falling to be credited or debited to their Housing Revenue Account for the relevant year; and
  - (b) the best estimates that they are able to make at that time of the amounts which, on those assumptions, will fall to be so credited or debited,implementation of the proposals will secure that the account for that year does not show a debit balance.
- (4) No assumptions shall be made under subsection (3) above as to the exercise by the Secretary of State of any power except on the basis of information published by him or on his behalf or supplied by him to the authority.
- (5) Subject to subsections (6) and (7) below, the authority shall implement the proposals formulated by them under subsection (2) above.
- (6) The authority shall from time to time determine whether the proposals formulated under subsection (2) above satisfy the requirements of subsection (3) above; and—
  - (a) termine that question in the affirmative, they may make such revisions of the proposals as they think fit, so long as the proposals (as so revised) continue to satisfy those requirements;
  - (b) if they determine that question in the negative, they shall make such revisions of the proposals as are reasonably practicable towards securing that the proposals (as so revised) satisfy those requirements.
- (7) Where the proposals formulated under subsection (2) above are revised under subsection (6) above, subsections (3) to (6) above shall apply in relation to the proposals as so revised as they applied in relation to the proposals as originally formulated.
- (8) The authority shall, within one month of formulating their proposals under subsection (2) above, or of revising those proposals under subsection (6) above, prepare a statement setting out—
  - (a) those proposals as so formulated or so revised;
  - (b) the estimates made by them under subsection (3)(b) above on the basis of which those proposals were so formulated or so revised; and

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(c) such other particulars relating to those proposals and estimates as the Secretary of State may direct;

and a direction under paragraph (c) above may specify the manner in which the particulars are to be set out in the statement.

- (9) The authority shall, until the end of the year next following the relevant year, keep copies of the statement which is for the time being the latest statement prepared by them under subsection (8) above available for inspection by the public without charge at all reasonable hours at one or more of their offices; and any person shall be entitled to take copies of, or extracts from, that statement when so made available.

## **77 Power to keep Housing Repairs Account**

- (1) A local housing authority who are required to keep a Housing Revenue Account may also keep, in accordance with proper practices, an account called the “Housing Repairs Account”.
- (2) An authority who keep a Housing Repairs Account shall carry to the credit of the account for any year—
- (a) sums transferred for the year from their Housing Revenue Account; and
  - (b) sums receivable by the authority for the year in connection with the repair or maintenance of houses or other property within their Housing Revenue Account (either from their tenants or from the sale of scrapped or salvaged materials).
- (3) The authority shall carry to the debit of the account for any year—
- (a) all expenditure incurred by them for the year in connection with the repair or maintenance of houses or other property within their Housing Revenue Account;
  - (b) such expenditure incurred by them for the year in connection with the improvement or replacement of houses or other property within their Housing Revenue Account as may from time to time be determined by the Secretary of State; and
  - (c) sums transferred for the year to the Housing Revenue Account in accordance with subsection (5) below.
- (4) The authority shall secure that sufficient credits are carried to the account to secure that no debit balance is shown in the account for any year.
- (5) The authority may carry some or all of any credit balance in the account for any year to the credit of their Housing Revenue Account.
- (6) So much of any credit balance shown in an authority’s Housing Repairs Account at the end of the year beginning 1st April 1989 as is not carried to the credit of their Housing Revenue Account for that year shall be carried forward and credited to some other revenue account of theirs for the year beginning 1st April 1990.

## **78 Directions to secure proper accounting**

The Secretary of State may give directions as to the accounting practices (whether actual or prospective) which are to be followed by a local housing authority in the keeping of their Housing Revenue Account or Housing Repairs Account.

### *Housing subsidies*

#### **79 Housing Revenue Account subsidy**

- (1) Housing Revenue Account subsidy shall be payable for each year to local housing authorities.
- (2) Housing Revenue Account subsidy shall be paid by the Secretary of State at such times, in such manner and subject to such conditions as to records, certificates, audit or otherwise as he may, with the agreement of the Treasury, determine.
- (3) Sections 421 to 427A of the Housing Act 1985 (which are superseded, in their application to local housing authorities, by this section and sections 80 and 86 below) shall cease to apply in relation to such authorities.

#### **80 Calculation of Housing Revenue Account subsidy**

- (1) The amount of Housing Revenue Account subsidy (if any) payable to a local housing authority for a year shall be calculated in accordance with such formulae as the Secretary of State may from time to time determine; and for any year the first such determination shall be made before the 25th December immediately preceding that year.
- (2) If the amount so calculated is a negative amount, the authority shall for that year carry the equivalent positive amount from their Housing Revenue Account to the credit of some other revenue account of theirs.
- (3) In determining a formula for the purposes of this section for any year, the Secretary of State may include variables framed (in whatever way he considers appropriate) by reference to—
  - (a) any amounts which fall to be or were credited or debited to the authority's Housing Revenue Account for that year or any previous year;
  - (b) any amounts which, on such assumptions as the Secretary of State may determine (whether or not borne out or likely to be borne out by events), would fall to be or would have been so credited or debited; and
  - (c) such other matters relating to the authority, or to (or to tenants of) houses and other property which are or have been within the account, as he thinks fit;and the Secretary of State may make any determination falling to be made for the purposes of a formula on the basis of information received by him on or before such date as he thinks fit.
- (4) Without prejudice to the generality of subsection (3) above, a formula may require it to be assumed that the amount for any year of the rental income or housing expenditure of each authority (or each authority in England or in Wales) is to be determined—
  - (a) by taking the amount which the Secretary of State considers (having regard, amongst other things, to past and expected movements in incomes, costs and prices) should be or should have been the aggregate amount for that year of the rental incomes or, as the case may be, the housing expenditure of all of the authorities (or all of the authorities in England or Wales) taken together; and
  - (b) by apportioning that amount between them in such manner as the Secretary of State considers appropriate (which may involve, if he thinks fit, inferring the aggregate values of the houses and other property within their respective

Housing Revenue Accounts from the average values of any of the houses and other property which they have disposed of);

and in this subsection “rental income” means income falling within item 1 of Part I of Schedule 4 to this Act and “housing expenditure” means expenditure falling within item 1 of Part II of that Schedule or falling to be debited to the authorities' Housing Repairs Accounts.

## **81 Consequential adjustment of rent rebate subsidy**

- (1) In subsection (2) of section 30 of the Social Security Act 1986 (housing benefit finance), for the words “total housing benefit” there shall be substituted the words “relevant benefit” and there shall be added at the end the words “and in this subsection “relevant benefit” means total housing benefit excluding, in the case of a local authority in England and Wales, any Housing Revenue Account rebates granted by them”.
- (2) In subsection (5)(a) of that section, for sub-paragraphs (i) and (ii) there shall be substituted the words “for the credit of a revenue account of theirs which is not a Housing Revenue Account or Housing Repairs Account”.
- (3) For subsection (6) of that section there shall be substituted the following subsection—
  - “(6) Every local housing authority shall for each year carry to the credit of their Housing Revenue Account from some other revenue account of theirs which is not a Housing Repairs Account an amount equal to the aggregate of—
    - (a) so much of each Housing Revenue Account rebate granted by them during the year as was granted in the exercise of a discretion conferred by the housing benefit scheme or in pursuance of such modifications of that scheme as are mentioned in paragraph (b) of subsection (6) of section 28 above (general modifications); and
    - (b) unless the authority otherwise determine, so much of each such rebate as was granted in pursuance of such modifications of that scheme as are mentioned in paragraph (a) of that subsection (modifications for disregarding war disablement pensions or war widows' pensions).”
- (4) In subsection (10) of that section, the words “rate fund” shall cease to have effect.
- (5) In section 84(1) of that Act (general interpretation), in the definition of “Housing Revenue Account dwelling” for the words from “Part XIII of the Housing Act 1985)” to the end there shall be substituted the words “Part VI of the Local Government and Housing Act 1989)”.

## **82 Residual debt subsidy for year 1989–90**

- (1) Where, in the case of any local housing authorities to whom no housing subsidy is payable for the year beginning 1st April 1989, houses or other property within their respective Housing Revenue Accounts—
  - (a) are disposed of in that year, or
  - (b) are in that year the subject of such other transactions as the Secretary of State may determine,
 residual debt subsidy shall be payable for that year to those authorities in respect of costs relating to the houses or other property.

- (2) Residual debt subsidy shall be paid by the Secretary of State at such times, in such manner and subject to such conditions as to records, certificates, audit or otherwise as he may, with the agreement of the Treasury, determine.
- (3) Payment of residual debt subsidy shall be subject to the making of a claim for it in such form, and containing such particulars, as the Secretary of State may from time to time determine.
- (4) Residual debt subsidy paid to a local housing authority shall be credited to the authority's Housing Revenue Account and, accordingly, for the year beginning 1st April 1989 the reference to housing subsidy in item 3 in Part I of Schedule 14 to the Housing Act 1985 shall be taken to include a reference to residual debt subsidy.

### **83 Calculation of residual debt subsidy**

- (1) The amount of the residual debt subsidy (if any) payable to a local housing authority shall be calculated—
  - (a) in accordance with such formulae as the Secretary of State may from time to time determine; and
  - (b) by reference to such houses or other property as the Secretary of State may for the time being determine.
- (2) A determination of the Secretary of State under this section may relate to disposals or other transactions which occur before the making of the determination.

### **84 Adjustment of housing subsidy for year 1989-90**

- (1) In any case where, apart from this subsection and subsection (2) below, the amount of housing subsidy payable to a local housing authority for the year beginning 1st April 1989 would be reduced or extinguished as a result of the transfer from the authority to a housing action trust of housing, land or other property as mentioned in section 74 of the Housing Act 1988, the Secretary of State, in the exercise of his power under section 423(2) of the Housing Act 1985, may adjust the authority's base amount for that year to take account of the effect of that transfer.
- (2) If, in accordance with subsection (1) above, the Secretary of State can make an adjustment of a local housing authority's base amount for the year beginning 1st April 1989 to take account of a transfer of housing, land or other property to a housing action trust, he may, instead of or as well as making such an adjustment, take account of the effect of the transfer in the making or varying of any determination for that year under section 424 (housing costs differential) or in the making of any determination under section 425 (local contribution differential) of the Housing Act 1985.
- (3) Subsections (1) and (2) above shall be deemed to have been in force so as to be applicable for the year beginning 1st April 1989.

### *Supplementary*

### **85 Power to obtain information**

- (1) A local housing authority, and any officer or employee of a local housing authority concerned with their housing functions, shall supply the Secretary of State with such

information as he may specify, either generally or in any particular case, for the purpose of enabling the Secretary of State to exercise his functions under section 80 or 83 above.

- (2) A local housing authority shall supply the Secretary of State with such certificates supporting the information required by him as he may specify.
- (3) If a local housing authority, or any officer or employee of a local housing authority concerned with their housing functions, fails to comply with subsection (1) or (2) above before the end of such period as the Secretary of State may specify, he may exercise his functions under section 80 or 83 above on the basis of such assumptions and estimates as he sees fit.

## **86 Recoupment of subsidy in certain cases**

- (1) Where Housing Revenue Account subsidy or residual debt subsidy has been paid to a local housing authority and it appears to the Secretary of State that the case falls within rules published by him, he may recover from the authority the whole or such part of the payment as he may determine in accordance with the rules, with interest from such time and at such rates as he may so determine.
- (2) Without prejudice to other methods of recovery, a sum recoverable under this section may be recovered by withholding or reducing subsidy.

## **87 Determinations and directions**

- (1) A determination made or direction given by the Secretary of State under this Part—
  - (a) may make different provision for different cases or descriptions of cases, including different provision for different areas, for different local housing authorities or for different descriptions of local housing authorities;
  - (b) may be made before, during or after the end of the year to which it relates; and
  - (c) may be varied or revoked by a subsequent determination or direction.
- (2) Before making a determination or giving a direction under this Part relating to all local housing authorities or any description of such authorities, the Secretary of State shall consult such representatives of local government and relevant professional bodies as appear to him to be appropriate; and, before making a determination or giving a direction relating to a particular local housing authority, he shall consult that authority.
- (3) As soon as practicable after making a determination under this Part, the Secretary of State shall send a copy of the determination to the local housing authority or authorities to which it relates.

## **88 Construction and application of Part VI**

- (1) In this Part—
  - (a) expressions which are used in Part XIII of the Housing Act 1985 (general financial provisions) have the same meaning as in that Part;
  - (b) references to a local housing authority's Housing Revenue Account or Housing Repairs Account include, where the context so admits, references to the corresponding account kept by them under that Part;



- (c) references to a revenue account of a local housing authority other than their Housing Revenue Account do not include references to a Housing Repairs Account; and
  - (d) references to proper practices shall be construed in accordance with section 66(4) above.
- (2) Sections 82 to 84 above and, so far as relating to those sections or residual debt subsidy, this section and sections 85 to 87 above, have effect for the year beginning on 1st April 1989.
- (3) Subject to subsection (2) above, this Part has effect for years beginning on or after 1st April 1990.
- (4) If, before the passing of this Act, any statement was made by or on behalf of the Secretary of State—
  - (a) that, if this Part were then in force, he would make, under section 83 above, such a determination as is set out in the statement, and
  - (b) that, when this Act is passed, he is to be regarded as having made under that section the determination set out in the statement,the determination set out in the statement shall have effect as if it had been validly made under section 83 above at the time of the statement.
- (5) Any consultation undertaken—
  - (a) before the passing of this Act, and
  - (b) before the making of such a statement as is referred to in subsection (4) above, and
  - (c) in connection with a determination proposed to be set out in the statement,shall be as effective, in relation to that determination, as if this Part had been in force at the time the consultation was undertaken.
- (6) Any consultation undertaken before the passing of this Act in connection with a determination proposed to be made under this Part shall be as effective, in relation to that determination, as if this Part had been in force at the time the consultation was undertaken.