

Bill 6

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PART 1

OTHER SPECIAL TYPES OF COMPANY ETC

CHAPTER 1

CO-OPERATIVE HOUSING ASSOCIATIONS

1 Disregard of rent from members and of interest payable [j2802]

- (1) Subsections (2) and (3) apply if a housing association makes a claim under this section for an accounting period or part of an accounting period during which the association was approved for the purposes of this Chapter.

Origin: ICTA s.488(1); Annex 1, Change [jc680].

- (2) Rent to which the association was entitled from its members for the accounting period or part of an accounting period is ignored for tax purposes.

Origin: ICTA s.488(1); Annex 1, Change [jc680].

- (3) The association is treated for corporation tax purposes as if any interest payable by it for the accounting period or part of an accounting period were not payable.

Origin: ICTA s.488(1); Annex 1, Change [jc680].

- (4) But subsection (3) does not apply so far as the interest is attributable to property that is not subject to a tenancy.

Origin: ICTA s.488(2).

2 Exemption for gains on a sale of property [j2803]

- (1) This section applies if—
- chargeable gains accrue to a housing association on a disposal by way of sale of any property which has been occupied, or is occupied, by a tenant of the housing association,
 - the gains accrue in an accounting period or part of an accounting period during which the association was approved for the purposes of this Chapter, and
 - the association makes a claim under this section for that period or part of a period.

Origin: ICTA s.488(5).

- (2) No liability to corporation tax arises in respect of the gains.

Origin: ICTA s.488(5).

3 Approval of housing associations [j2800a]

- (1) In the case of a housing association in Great Britain, the power to approve housing associations for the purposes of this Chapter –
- (a) is exercisable by the Scottish Ministers if the association has its registered office in Scotland,
 - (b) is exercisable by the Welsh Ministers in relation to Wales, and
 - (c) is otherwise exercisable by the Secretary of State.

Origin: ICTA s.488(6); Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2004 art.2(1), 3; National Assembly for Wales (Transfer of Functions) Order 1999 art.2, Sch.1; Government of Wales Act 2006 Sch.11 para.30(1), (2).

- (2) In the case of a housing association in Northern Ireland, the power to approve housing associations for the purposes of this Chapter is exercisable by the Department for Social Development.

Origin: ICTA s.488(6); Annex 1, Change [jc683].

- (3) An approval given for the purposes of this Chapter –
- (a) has effect from the date specified by the approving authority (which may be earlier or later than the date on which the approval is given), and
 - (b) may be revoked by the approving authority.

Origin: ICTA s.488(7).

- (4) See also paragraph [1] of Schedule 1 (concurrent exercise by the Secretary of State of certain functions exercisable by the Welsh Ministers).

Origin: Drafting.

4 Tests to be satisfied by the association [j2800]

- (1) The authority mentioned in section 3(1) or (2) must not approve a housing association unless it is satisfied that the association satisfies each of tests A to E.

Origin: ICTA s.488(6).

- (2) Test A is that the association is –
- (a) a housing association within the meaning of the Housing Associations Act 1985 (c. 69) (see section 1(1) of that Act), or
 - (b) a housing association within the meaning of Part 2 of the Housing (Northern Ireland) Order 1992 (S.I. 1725 (N.I. 15)) (see Article 3 of that Order).

Origin: ICTA s.488(6).

- (3) Test B is that the association is a society registered or treated as registered under the Industrial and Provident Societies Act 1965 (c. 12) or the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.)).

Origin: ICTA s.488(6).

- (4) Test C is that the rules of the association –
- (a) restrict membership to persons who are tenants or prospective tenants of the association, and

- (b) preclude the granting or assignment (or, in Scotland, the granting or assignation) of tenancies to persons other than members.

Origin: ICTA s.488(6).

- (5) Test D is that the association satisfies any other requirements prescribed by –
 - (a) the Secretary of State as regards England and Scotland,
 - (b) the Welsh Ministers as regards Wales, or
 - (c) the Department for Social Development as regards Northern Ireland.

Origin: ICTA s.488(6); National Assembly for Wales (Transfer of Functions) Order 1999 art.2, Sch.1; Government of Wales Act 2006 Sch.11 para.30(1), (2); Annex 1, Change [jc683].

- (6) Test E is that the association will comply with any conditions that may be prescribed by –
 - (a) the Secretary of State as regards England and Scotland,
 - (b) the Welsh Ministers as regards Wales, or
 - (c) the Department for Social Development as regards Northern Ireland.

Origin: ICTA s.488(6); National Assembly for Wales (Transfer of Functions) Order 1999 art.2, Sch.1; Government of Wales Act 2006 Sch.11 para.30(1), (2); Annex 1, Change [jc683].

5 Delegation of powers to the Regulator of Social Housing [j2807]

- (1) In relation to a housing association which is a registered provider of social housing (see section 80(2) of the Housing and Regeneration Act 2008) the Secretary of State may delegate to the Regulator of Social Housing any of the Secretary of State's functions under section 3 or 4.

Origin: ICTA s.488(7A).

- (2) The functions may be delegated –
 - (a) to any extent that the Secretary of State specifies, and
 - (b) subject to any conditions that the Secretary of State specifies.

Origin: ICTA s.488(7A).

6 Claims under section 1 or 2 [j2805]

- (1) A claim under section 1 or 2 must be made –
 - (a) within two years after the end of the accounting period to which it relates, or
 - (b) if it relates to part of an accounting period, within two years after the end of that accounting period.

Origin: ICTA s.488(9); Annex 1, Change [jc680].

- (2) A housing association must not make a claim under section 1 or 2 for an accounting period or part of an accounting period unless –
 - (a) the requirements in subsection (3) were complied with during that period or part, or
 - (b) the association reasonably considers that those requirements were substantially complied with during that period or part.

Origin: ICTA s.488(10), (11).; Annex 1, Change [jc680].

- (3) The requirements are that –
- (a) no property belonging to the association was let otherwise than to a member of the association,
 - (b) only persons who were then members of the association occupied (whether solely or jointly with another person) any property, or any part of any property, let by the association,
 - (c) the association satisfied each of tests A to C in section 4 and complied with any conditions that were in force by virtue of section 4(6), and
 - (d) any covenants required to be included in grants of tenancies by those conditions were observed.

Origin: ICTA s.488(10).

- (4) If a member of a housing association dies and another person occupies a property, or part of a property, in accordance with the member's will or the provisions applicable on the member's intestacy, that person's occupation during the first 6 months after the death does not infringe the requirement in subsection (3)(b).

Origin: ICTA s.488(10).

7 Adjustments of liability [j2806]

- (1) If an adjustment of a housing association's liability to corporation tax is necessary as a result of a claim under section 1, the adjustment may be made by an assessment, by repayment of tax or otherwise.

Origin: ICTA s.488(4).

- (2) A housing association's liability to corporation tax may be adjusted by means of assessments or otherwise if –
- (a) a claim by the housing association under section 1 or 2 is included in a company tax return,
 - (b) an enquiry is made into the tax return, and
 - (c) an amendment is made to the tax return as a result of the enquiry.

Origin: ICTA s.488(11A).

- (3) A housing association's liability to corporation tax may be adjusted by means of assessments or otherwise if –
- (a) an enquiry is made under paragraph 5 of Schedule 1A to TMA 1970 into a claim made by the association under section 1 or 2, or into an amendment of such a claim, and
 - (b) an amendment is made to the claim as a result of the enquiry.

Origin: ICTA s.488(11A).

- (4) Adjustments under subsection (2) or (3) may be made for all relevant accounting periods.

Origin: ICTA s.488(11A); Annex 1, Change [jc680].

8 Power to make further provision [j2804]

- (1) The Secretary of State may by statutory instrument make regulations with respect to England and Scotland for the purpose of carrying out the provisions of this Chapter.

[Origin: ICTA s.488\(8\).](#)

- (2) The Welsh Ministers may by statutory instrument make regulations with respect to Wales for the purpose of carrying out the provisions of this Chapter.

[Origin: ICTA s.488\(8\); National Assembly for Wales \(Transfer of Functions\) Order 1999 art.2, Sch.1; Government of Wales Act 2006 Sch.11 para.30\(1\), \(2\).](#)

- (3) The Department for Social Development may make regulations with respect to Northern Ireland for the purpose of carrying out the provisions of this Chapter.

[Origin: ICTA s.488\(8\); Annex 1, Change \[jc683\].](#)

- (4) Regulations made under subsection (3) are a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

[Origin: ICTA s.488\(8\).](#)

- (5) If any regulations under this section prescribe requirements for the purposes of section 4(5) or conditions for the purposes of section 4(6) –

- (a) any requirements or conditions previously prescribed under section 4(5) or (6) are to cease to have effect when the regulations come into force, and
- (b) no further exercise may be made of the power under section 4(5) or (6) to prescribe requirements or conditions otherwise than by regulations.

[Origin: ICTA s.488\(8\).](#)

- (6) The reference in section 6(3)(c) to conditions that were in force by virtue of section 4(6) includes conditions prescribed for the purposes of section 4(6) under subsection (5) above.

[Origin: ICTA s.488\(8\); drafting.](#)

CHAPTER 2

SELF-BUILD SOCIETIES

9 Meaning of “self-build society” [j2810]

- (1) Subsections (2) and (3) give the meaning of “self-build society” in this Chapter.

[Origin: ICTA s.489\(11\); drafting.](#)

- (2) In England, Scotland and Wales “self-build society” has the same meaning as in the Housing Associations Act 1985 (c. 69) (see section 1(3) of that Act).

[Origin: ICTA s.489\(11\).](#)

- (3) In Northern Ireland “self-build society” has the same meaning as in the Housing (Northern Ireland) Order 1992 (S.I. 1725 (N.I. 15)) (see Article 3 of that Order).

[Origin: ICTA s.489\(11\).](#)

10 Disregard of rent from members [j2802sb]

- (1) If a self-build society makes a claim under this section for an accounting period or part of an accounting period during which the society was approved for the purposes of this Chapter, rent to which the society was entitled from its members for the accounting period or part of an accounting period is ignored for tax purposes.

Origin: ICTA s.489(1); Annex 1, Change [jc680].

- (2) In this section “rent” includes any amounts to which a self-build society is entitled in respect of the occupation of any of its land.

Origin: ICTA s.489(11).

- (3) The reference in subsection (2) to occupation includes occupation under a licence.

Origin: ICTA s.489(11).

11 Exemption for gains on disposals of land to members [j2803sb]

- (1) This section applies if—
- (a) chargeable gains accrue to a self-build society on a disposal of land to a member of the society,
 - (b) the gains accrue in an accounting period or part of an accounting period during which the society was approved for the purposes of this Chapter, and
 - (c) the society makes a claim under this section for that period or part of a period.

Origin: ICTA s.489(3).

- (2) No liability to corporation tax arises in respect of the gains.

Origin: ICTA s.489(3).

12 Approval of self-build societies [j2800sb]

- (1) The power to approve self-build societies for the purposes of this Chapter is exercisable—
- (a) in relation to England and Scotland, by the Secretary of State,
 - (b) in relation to Wales, by the Welsh Ministers, and
 - (c) in relation to Northern Ireland, by the Department for Social Development.

Origin: ICTA s.489(4), (12); National Assembly for Wales (Transfer of Functions) Order 1999 art.2, Sch.1; Government of Wales Act 2006 Sch.11 para.30(1), (2); Annex 1, Change [jc683].

- (2) The authority mentioned in subsection (1) must not approve a self-build society unless it is satisfied that the society—
- (a) is registered, or treated as being registered, as mentioned in subsection (3),
 - (b) satisfies any other requirements prescribed by or under regulations under section 16, and

- (c) will comply with any conditions that may be prescribed by or under regulations under that section.

Origin: ICTA s.489(4), (12).

- (3) The reference in subsection (2)(a) is to registration –
 - (a) under the Industrial and Provident Societies Act 1965 (c. 12) (if the power is exercisable by the Secretary of State or the Welsh Ministers), or
 - (b) under the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.)) (if the power is exercisable by the Department for Social Development).

Origin: ICTA s.489(4), (12); Annex 1, Change [jc683].

- (4) An approval given for the purposes of this Chapter –
 - (a) has effect from the date specified by the approving authority (which may be earlier or later than the date on which the approval is given), and
 - (b) may be revoked by the approving authority.

Origin: ICTA s.489(5), (12).

- (5) See also paragraph [2] of Schedule 1 (concurrent exercise by the Secretary of State of certain functions exercisable by the Welsh Ministers).

Origin: Drafting.

13 Delegation of powers to the Regulator of Social Housing [j2807sb]

- (1) The Secretary of State may delegate to the Regulator of Social Housing any function of the Secretary of State under section 12 in a case where the function is exercisable in relation to a society whose registered office for the purposes of the Industrial and Provident Societies Act 1965 is in England.

Origin: ICTA s.489(5A).

- (2) The function may be delegated –
 - (a) to any extent that the Secretary of State specifies, and
 - (b) subject to any conditions that the Secretary of State specifies.

Origin: ICTA s.489(5A).

14 Claims under section 10 or 11 [j2805sb]

- (1) A claim under section 10 or 11 must be made –
 - (a) within two years after the end of the accounting period to which it relates, or
 - (b) if it relates to part of an accounting period, within two years after the end of that accounting period.

Origin: ICTA s.489(7); Annex 1, Change [jc680].

- (2) A self-build society must not make a claim under section 10 or 11 for an accounting period or part of an accounting period unless –
 - (a) the requirements in subsection (3) were complied with during that period or part, or

- (b) the society reasonably considers that those requirements were substantially complied with during that period or part.

Origin: ICTA s.489(8), (9); Annex 1, Change [jc680].

- (3) The requirements are that—
 - (a) only persons who were then members of the society occupied (whether solely or jointly with another person) any land, or any part of any land, owned by the society,
 - (b) the society complied with the requirement in section 12(2)(a), and
 - (c) the society complied with any conditions that were in force by virtue of section 12(2)(c).

Origin: ICTA s.489(8).

- (4) If a member of a self-build society dies and another person occupies a property, or part of a property, in accordance with the member's will or the provisions applicable on the member's intestacy, that person's occupation during the first 6 months after the death does not infringe the requirement in subsection (3)(a).

Origin: ICTA s.489(8).

- (5) A claim under section 10 or 11 must be in the form (if any) prescribed by the Commissioners for Her Majesty's Revenue and Customs and contain any details which they prescribe.

Origin: ICTA s.489(10).

15 Adjustments of liability [j2806sb]

- (1) If an adjustment of a self-build society's liability to corporation tax is necessary as a result of a claim under section 10, the adjustment may be made by an assessment, by repayment of tax or otherwise.

Origin: ICTA s.489(2).

- (2) A self-build society's liability to corporation tax may be adjusted by means of assessments or otherwise if—
 - (a) a claim by the society under section 10 or 11 is included in a company tax return,
 - (b) an enquiry is made into the tax return, and
 - (c) an amendment is made to the tax return as a result of the enquiry.

Origin: ICTA s.489(9A).

- (3) A self-build society's liability to corporation tax may be adjusted by means of assessments or otherwise if—
 - (a) an enquiry is made under paragraph 5 of Schedule 1A to TMA 1970 into a claim made by the society under section 10 or 11, or into an amendment of such a claim, and
 - (b) an amendment is made to the claim as a result of the enquiry.

Origin: ICTA s.489(9A).

- (4) Adjustments under subsection (2) or (3) may be made for all relevant accounting periods.

Origin: ICTA s.489(9A); Annex 1, Change [jc680].

16 Power to make further provision [j2804sb]

- (1) The Secretary of State may by statutory instrument make regulations with respect to England and Scotland for the purpose of carrying out the provisions of this Chapter.

Origin: ICTA s.489(6).

- (2) A statutory instrument containing regulations made under subsection (1) is subject to annulment in pursuance of a resolution of the House of Commons.

Origin: ICTA s.489(6).

- (3) The Welsh Ministers may by statutory instrument make regulations with respect to Wales for the purpose of carrying out the provisions of this Chapter.

Origin: ICTA s.489(6); National Assembly for Wales (Transfer of Functions) Order 1999 art.2, Sch.1; Government of Wales Act 2006 Sch.11 para.30(1), (2).

- (4) A statutory instrument containing regulations made under subsection (3) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

Origin: ICTA s.489(6); Government of Wales Act 2006 Sch.11 para.33(1), (2), (6).

- (5) The Department for Social Development may make regulations with respect to Northern Ireland for the purpose of carrying out the provisions of this Chapter.

Origin: ICTA s.489(12); Annex 1, Change [jc683].

- (6) Regulations made under subsection (5) are a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

Origin: ICTA s.489(12).

- (7) A statutory rule containing regulations made under subsection (5) is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)).

Origin: ICTA s.489(12).

SCHEDULE

Section {j999997}

TRANSITIONALS AND SAVINGS [j3HA]

PART 1

CO-OPERATIVE HOUSING ASSOCIATIONS AND SELF-BUILD SOCIETIES

- 1 So far as any function of the Welsh Ministers under section 488 of ICTA (co-operative housing associations) was immediately before 1 April 2010 exercisable by the Welsh Ministers concurrently with the Secretary of State, the corresponding function of the Welsh Ministers under section 3, 4 or 8 is exercisable concurrently with the Secretary of State.

[Origin: National Assembly for Wales \(Transfer of Functions\) Order 1999 art. 2.](#)

- 2 So far as any function of the Welsh Ministers under section 489 of ICTA (self-build societies) was immediately before 1 April 2010 exercisable by the Welsh Ministers concurrently with the Secretary of State, the corresponding function of the Welsh Ministers under section 12 or 16 is exercisable concurrently with the Secretary of State.

[Origin: National Assembly for Wales \(Transfer of Functions\) Order 1999 art. 2.](#)