

Appendix 1

Relevant legislative provisions in respect of the HRA

Housing Act 1985 – s.17 - is the principal power to purchase land and housing, in order to provide housing by erection, or conversion, under [s.9](#), or in order to sell the land to someone else to provide housing on it (see also [s.9\(3\)](#)), or to provide facilities in connection with housing under [ss.11](#) (board and laundry) and [12](#) (shops, recreation grounds or other beneficial purposes), or in order to carry out works of alteration, enlargement, repair or improvement to adjoining property in or to be in their ownership. Authorities may acquire by agreement, or compulsorily with the consent of the Secretary of State.

The decision whether or not to add to their housing stock is for the authority alone and the courts should only interfere on [Wednesbury](#) grounds: [R. v Lambeth LBC Ex p. A \(1997\) 30 H.L.R. 933, CA.](#)

Part II Provision of Housing Accommodation

Acquisition of land, etc.

17 Acquisition of land for housing purposes.

(1) A local housing authority may for the purposes of this Part—

- (a) acquire land as a site for the erection of houses,
- (b) acquire houses, or buildings which may be made suitable as houses, together with any land occupied with the houses or buildings,
- (c) acquire land proposed to be used for any purpose authorised by sections 11, 12 and 15(1) (facilities provided in connection with housing accommodation), and
- (d) acquire land in order to carry out on it works for the purpose of, or connected with, the alteration, enlarging, repair or improvement of an adjoining house.

(2) The power conferred by subsection (1) includes power to acquire land 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 or facilities which serve a beneficial purpose in connection with the requirements of persons for whom housing accommodation is provided.

(3) Land may be acquired by a local housing authority for the purposes of this Part by agreement, or they may be authorised by the Secretary of State to acquire it compulsorily.

(4) A local housing authority may, with the consent of, and subject to any conditions imposed by, the Secretary of State, acquire land for the purposes of this Part notwithstanding that the land is not immediately required for those purposes; but an authority shall not be so authorised to acquire land compulsorily unless it appears to the Secretary of State that the land is likely to be required for those purposes within ten years from the date on which he confirms the compulsory purchase order.

Local Government and Housing Act 1989 – s.74 – HRA ring-fencing is achieved by changes to what may be debited and credited to the HRA, curtailing the power of an authority to make transfers to and from the HRA, and to and from other revenue accounts (see [s.75](#) and [Sch. 4](#)) and by the control contained in [s.76](#), requiring an authority to budget to avoid a debit balance on the HRA.

SS(1) The HRA is to be maintained in respect of—potentially—six classes of property - including

2.

In addition, all land which has been acquired or appropriated for the [Housing Act 1985 Pt II](#) purposes is within the HRA, e.g. common parts of an estate, land with a beneficial purpose under [1985 Act s.12](#), or land bought for or appropriated to development which has not yet taken place. Land includes “buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land”: [Interpretation Act 1978 Sch.1](#).

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.

(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 or facilities which serve a beneficial purpose in connection with the requirements of persons for whom housing accommodation is provided;

(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 or which is a long tenancy within the meaning given by paragraph 8 of Schedule 2 to the Renting Homes (Wales) Act [2016 \(anaw 1\)](#).

(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.

Schedule 4

The Keeping of the Housing Revenue Account

Part II

Debits to the Account

For each year a local housing authority who are required to keep a Housing Revenue Account ("the account") shall carry to the debit of the account amounts equal to the items listed in this Part of this Schedule.

Item 1: expenditure on repairs, maintenance and management

Item 2: capital expenditure

Any expenditure of the authority in respect of houses and other property within the account—

(a) which is capital expenditure for the year; and

(b) which the authority decide should be charged to a revenue account for the year.

In this item “capital expenditure” means expenditure which is capital expenditure for the purposes of Chapter 1 of Part 1 of the Local Government Act 2003 (capital finance).*

Item 3: rents, rates, taxes and other charges

Item 4: rent rebates

*** Section 16 “Capital expenditure”**

(1) Subject to subsection (2), references in this Chapter to capital expenditure, in relation to a local authority, are to expenditure of the authority which falls to be capitalised in accordance with proper practices.

(2) The Secretary of State may—

(a) by regulations provide that expenditure of local authorities shall be treated for the purposes of this Chapter as being, or as not being, capital expenditure;

(b) by direction provide that expenditure of a particular local authority shall be treated for the purposes of this Chapter as being, or as not being, capital expenditure.

Local Government Act 2003 - ss 87- 92 - the changes introduced re-structure the HRA as a pure landlord account, removing any possibility of the council tax payer subsidising the rent payer. Prudential Code replaced capital controls. Appraisal of a housing authority’s performance is introduced into the calculation of housing subsidy by the inclusion of the HRA business plan as a factor to which the Secretary of State may have regard.

Localism Act 2011 - abolition of the Housing Subsidy System (s167) and introduction of the self-financing debt settlement with a debt cap (s168 –s171).

April 2012 – implementation of the self-financing system.

Limits on Indebtedness (Revocation) Determination 2018 - abolition of the HRA Debt Cap on 29 Oct 2018. As a result, local authorities with an HRA are no longer constrained by government controls over borrowing for housebuilding and are able to borrow against their expected rental income, in line with the Prudential Code.