



Housing and Regeneration Act 2008

2008 CHAPTER 17

PART 2

REGULATION OF SOCIAL HOUSING

CHAPTER 7

ENFORCEMENT POWERS

General

218 Exercise of enforcement powers

- (1) This section applies where the regulator is deciding—
 - (a) whether to exercise a power under this Chapter,
 - (b) which power under this Chapter to exercise, or
 - (c) how to exercise a power under this Chapter.
- (2) The regulator shall consider—
 - (a) the desirability of registered providers being free to choose how to provide services and conduct business;
 - (b) whether the failure or other problem concerned is serious or trivial;
 - (c) whether the failure or other problem is a recurrent or isolated incident;
 - (d) the speed with which the failure or other problem needs to be addressed.

Enforcement notice

219 Overview

This group of sections allows the regulator to require a registered provider to take specified action to resolve a specified failure or other problem.

220 Grounds for giving notice

- (1) The regulator may give an enforcement notice to a registered provider if the regulator is satisfied that—
 - (a) any of the following cases applies, and
 - (b) giving an enforcement notice is appropriate (whether it is likely to be sufficient in itself or a prelude to further action).
- (2) Case 1 is where the registered provider has failed to meet a standard under section 193 or 194.
- (3) Case 2 is where the affairs of the registered provider have been mismanaged.
- (4) Case 3 is where the registered provider has failed to comply with an earlier enforcement notice.
- (5) Case 4 is where the registered provider has failed to publish information in accordance with a requirement under section 228(3) or 240(3).
- (6) Case 5 is where the interests of tenants of the registered provider require protection.
- (7) Case 6 is where the assets of the registered provider require protection.
- (8) Case 7 is where the registered provider has given an undertaking under section 125 and failed to comply with it.
- (9) Case 8 is where the registered provider has failed to pay an annual fee under section 117(2).
- (10) Case 9 is where an offence under this Part has been committed by the registered provider.
- (11) Case 10 is where the registered provider has failed to comply with an order made by an ombudsman appointed by virtue of section 124.
- (12) Where the regulator is satisfied that an offence under this Part has been committed in respect of a registered provider but by another person (such as a member, employee or agent of the registered provider)—
 - (a) Case 9 applies,
 - (b) the regulator may give an enforcement notice to the other person, and
 - (c) this Chapter applies with the substitution of references to that other person for references to the registered provider.

221 Content

- (1) An enforcement notice must—
 - (a) specify the grounds on which it is given,
 - (b) specify the action the regulator wants the registered provider to take in response to the notice,
 - (c) specify when the action is to be taken (which may be immediately on receipt of the notice), and
 - (d) explain the effect of sections 223 to 225.
- (2) The action specified in an enforcement notice may include publishing the notice in a specified manner.

222 Notifying HCA

If the regulator gives an enforcement notice it must send a copy to the HCA.

223 Appeal

A registered provider who is given an enforcement notice may appeal to the High Court.

224 Withdrawal

The regulator may withdraw an enforcement notice by notice to the registered provider.

225 Sanction

- (1) If a registered provider does not comply with an enforcement notice the regulator shall consider exercising another power under Chapter 6 or this Chapter.
- (2) In the case of an enforcement notice given to a person other than the registered provider by virtue of section 220(12), the regulator may only—
 - (a) exercise the power to issue a penalty notice to the person in accordance with the next group of sections, or
 - (b) take steps to have the person prosecuted for the offence by reference to which the enforcement notice was given.
- (3) A person to whom an enforcement notice is given on the ground in Case 9 of section 220 may not be prosecuted for the offence by reference to which the enforcement notice was given unless the person fails to comply with the enforcement notice.

Penalty

226 Overview

This group of sections allows the regulator to penalise failures on the part of registered providers by the imposition of fines.

227 Grounds for imposition

- (1) The regulator may require a registered provider to pay a penalty if the regulator is satisfied that—
 - (a) any of the following cases applies, and
 - (b) the imposition of a penalty is appropriate (whether or not as part of a response including other action).
- (2) Case 1 is where the registered provider has failed to meet a standard under section 193 or 194.
- (3) Case 2 is where the affairs of the registered provider have been mismanaged.
- (4) Case 3 is where the registered provider has failed to comply with an enforcement notice.

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- (5) Case 4 is where the registered provider has given an undertaking under section 125 and failed to comply with it.
- (6) Case 5 is where the registered provider has failed to pay an annual fee under section 117(2).
- (7) Case 6 is where an offence under this Part has been committed by the registered provider.
- (8) Where the regulator is satisfied that an offence under this Part has been committed in respect of a registered provider but by another person (such as a member, employee or agent of the registered provider)—
 - (a) Case 6 applies,
 - (b) the regulator may require the other person to pay a penalty, and
 - (c) this Chapter applies with the substitution of references to that other person for references to the registered provider.
- (9) In order to rely on Case 6 the regulator must be satisfied beyond reasonable doubt that it applies.

228 Imposition

- (1) A penalty is imposed by the regulator giving notice (a “penalty notice”) to the registered provider.
- (2) The notice must specify—
 - (a) the grounds on which the penalty is imposed,
 - (b) the amount of the penalty,
 - (c) how the penalty must be paid,
 - (d) a period within which it must be paid, and
 - (e) any interest or additional penalty which, by virtue of section 234(2), is payable in the event of late payment.
- (3) The notice may require the registered provider to publish information about the penalty in a specified manner.
- (4) The notice must explain the effect of sections 234(1), (3) and (6) and 235.
- (5) The Secretary of State—
 - (a) shall make regulations about the period under subsection (2)(d),
 - (b) may make other regulations about the form and content of a penalty notice, and
 - (c) may make regulations about the manner in which a penalty notice is given.

229 Amount

- (1) The amount of a penalty imposed on the ground specified in Case 6 of section 227 may not exceed the maximum amount of fine that a magistrates' court could impose for the relevant offence.
- (2) The amount of a penalty imposed on the ground specified in any other Case of that section may not exceed £5,000.

(3) The Secretary of State may by order amend the amount specified in subsection (2).

230 Warning

- (1) Before giving a penalty notice to a registered provider the regulator must give the provider a notice (a “pre-penalty warning”)—
 - (a) specifying grounds on which the regulator thinks a penalty could be imposed,
 - (b) warning the provider that the regulator is considering imposing a penalty,
 - (c) including any indication that the regulator is able to give of the likely amount of any penalty, and
 - (d) explaining the effect of sections 231, 234(1), (3) and (6) and 235.
- (2) If the regulator gives a pre-penalty warning it must send a copy to—
 - (a) the HCA, and
 - (b) any other persons it thinks appropriate.
- (3) For the purposes of subsection (2)(b) the regulator shall consider, in particular, any person who provided information as a result of which the pre-penalty warning is given.
- (4) A pre-penalty warning must—
 - (a) refer to section 125 (voluntary undertaking), and
 - (b) indicate whether or to what extent the regulator would accept a voluntary undertaking instead of, or in mitigation of, a penalty.
- (5) A pre-penalty warning may be combined with notice under one or more of sections 242, 248, 250 and 252.

231 Representations

- (1) A pre-penalty warning must specify a period during which the registered provider may make representations to the regulator.
- (2) The period must—
 - (a) be a period of at least 28 days, and
 - (b) begin with the date on which the registered provider receives the pre-penalty warning.
- (3) Representations may concern—
 - (a) whether a penalty should be imposed;
 - (b) the amount of any penalty that may be imposed.
- (4) After the end of the period specified under subsection (1) the regulator shall—
 - (a) consider any representations made, and
 - (b) decide whether to impose a penalty.

232 Notifying HCA

If the regulator imposes a penalty it must send a copy of the penalty notice to the HCA.

233 Destination

- (1) This section applies where the regulator receives money by way of penalty.
- (2) The regulator may deduct a sum which represents—
 - (a) the direct costs to the regulator of imposing and enforcing the penalty, and
 - (b) a reasonable share of expenditure by the regulator which is indirectly referable to the imposition and enforcement of the penalty.
- (3) Any excess shall be paid to the HCA, to be used for purposes which appear to it to amount to investment in social housing.

234 Enforcement

- (1) A penalty shall be treated as a debt owed to the regulator.
- (2) The Treasury may make regulations authorising the regulator—
 - (a) to charge interest on penalty not paid during the period specified under section 228(2)(d);
 - (b) to impose one or more additional penalties where a penalty is not paid during that period.
- (3) Interest and additional penalty shall be treated as penalty (and may have the effect of increasing the penalty above a limit set by section 229).
- (4) Regulations under subsection (2)(a) may provide for an interest rate to be—
 - (a) set by a specified person, or
 - (b) determined in accordance with the regulations.
- (5) A penalty notice may include provision allowing a discount if the penalty is paid on or before a date specified in the notice (falling within the period specified under section 228(2)(d)).
- (6) A person to whom a penalty notice is given on the ground in Case 6 of section 227 may not be prosecuted for the offence by reference to which the penalty notice was given.

235 Appeal

A registered provider who is given a penalty notice may appeal to the High Court against—

- (a) the imposition of the penalty,
- (b) its amount, or
- (c) both.

*Compensation***236 Overview**

This group of sections allows the regulator to award compensation to a victim of a failure on the part of a registered provider.

237 Grounds for award

- (1) The regulator may require a registered provider to pay compensation if the regulator is satisfied that—
 - (a) either of the following cases applies, and
 - (b) the award of compensation is appropriate (whether or not as part of a response including other action).
- (2) Case 1 is where the registered provider has failed to meet a standard under section 193 or 194.
- (3) Case 2 is where the registered provider has given an undertaking under section 125 and failed to comply with it.

238 Nature

- (1) Compensation in respect of a failure may be awarded to one or more persons who have suffered as a result of the failure.
- (2) But an award may be made only to—
 - (a) a specified tenant of social housing provided by the registered provider,
 - (b) each member of a specified class of tenants of social housing provided by the registered provider, or
 - (c) each member of the class of tenants of social housing provided by the registered provider.

239 Housing ombudsman compensation

- (1) The regulator may not award compensation to a person in respect of a matter if an ombudsman appointed by virtue of section 124 has awarded compensation to the person in respect of the matter.
- (2) But if compensation awarded by an ombudsman by virtue of section 124 has not been paid as required, the regulator may award compensation.

240 Award

- (1) Compensation is awarded by the regulator giving notice (a “compensation notice”) to—
 - (a) the registered provider, and
 - (b) the person to be compensated.
- (2) The notice must specify—
 - (a) the grounds on which the compensation is awarded,
 - (b) the amount of the compensation,
 - (c) the person to be compensated,
 - (d) any interest or additional compensation which, by virtue of section 244(2), is payable in the event of late payment, and
 - (e) a period within which it must be paid.
- (3) The notice may require the registered provider to publish information about the compensation award in a specified manner.

- (4) The notice must explain the effect of sections 244(1) and (3) and 245.
- (5) The Secretary of State—
 - (a) shall make regulations about the period under subsection (2)(e),
 - (b) may make other regulations about the form and content of a compensation notice, and
 - (c) may make regulations about the manner in which a compensation notice is given.

241 Impact

- (1) This section applies when the regulator is considering—
 - (a) whether to award compensation, or
 - (b) the amount of compensation to award.
- (2) The regulator must take account of any information available to it about the financial situation of the registered provider.
- (3) The regulator must consider the likely impact of the compensation on the registered provider's ability to provide services.
- (4) In particular, the regulator must aim to avoid—
 - (a) jeopardising the financial viability of the registered provider,
 - (b) preventing the registered provider from honouring financial commitments, or
 - (c) preventing the registered provider from taking action to remedy the matters on the grounds of which the compensation might be awarded.

242 Warning

- (1) Before giving a compensation notice to a registered provider the regulator must give the provider a notice (a “pre-compensation warning”)—
 - (a) specifying grounds on which the regulator thinks compensation could be awarded,
 - (b) warning the provider that the regulator is considering awarding compensation to a specified person,
 - (c) including any indication that the regulator is able to give of the likely amount of any compensation, and
 - (d) explaining the effect of sections 243, 244(1) and (3) and 245.
- (2) Before giving a pre-compensation warning the regulator must consult the person appointed by virtue of section 124 as the ombudsman for the scheme of which the registered provider is a member.
- (3) If the regulator gives a pre-compensation warning it must send a copy to—
 - (a) the HCA, and
 - (b) any other persons it thinks appropriate.
- (4) For the purposes of subsection (3)(b) the regulator shall consider, in particular, any person who provided information as a result of which the pre-compensation warning is given.
- (5) A pre-compensation warning must—

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- (a) refer to section 125 (voluntary undertaking), and
 - (b) indicate whether or to what extent the regulator would accept a voluntary undertaking instead of, or in mitigation of, awarding compensation.
- (6) A pre-compensation warning may be combined with notice under one or more of sections 230, 248, 250 and 252.

243 Representations

- (1) A pre-compensation warning must specify a period during which the registered provider may make representations to the regulator.
- (2) The period must—
- (a) be a period of at least 28 days, and
 - (b) begin with the date on which the registered provider receives the pre-compensation warning.
- (3) Representations may address—
- (a) whether compensation should be awarded;
 - (b) the amount of any compensation that may be awarded.
- (4) After the end of the period specified under subsection (1) the regulator shall—
- (a) consider any representations made, and
 - (b) decide whether to award compensation.

244 Enforcement

- (1) Compensation shall be treated as a debt owed to the person to whom it is awarded.
- (2) The Treasury may make regulations authorising the regulator—
- (a) to award interest on compensation not paid during the period specified under section 240(2)(e);
 - (b) to award additional compensation where compensation is not paid during that period.
- (3) Interest and additional compensation shall be treated as compensation.
- (4) Regulations under subsection (2)(a) may provide for an interest rate to be—
- (a) set by a specified person, or
 - (b) determined in accordance with the regulations.

245 Appeal

A registered provider who is given a compensation notice may appeal to the High Court against—

- (a) the award of compensation,
- (b) its amount, or
- (c) both.

*Management etc.***246 Overview**

This group of sections gives the regulator various powers in relation to the management and constitution of registered providers.

247 Management tender

- (1) This section applies if the regulator is satisfied that—
 - (a) a registered provider has failed to meet a standard under section 193 or 194, or
 - (b) the affairs of a registered provider have been mismanaged in relation to social housing.
- (2) The regulator may require the registered provider to implement a process specified by the regulator for the purpose of—
 - (a) inviting persons to apply to undertake management functions of the registered provider, and
 - (b) selecting from the applications and making an appointment.
- (3) A requirement may relate to—
 - (a) the registered provider's affairs generally in so far as they relate to social housing, or
 - (b) specified affairs relating to social housing.
- (4) A requirement must include—
 - (a) provision about the constitution of a selection panel (which must include provision for ensuring representation of tenants' interests),
 - (b) provision for ensuring best procurement practice, and
 - (c) provision about the terms and conditions on which the manager is to be appointed (including provision about—
 - (i) setting, monitoring and enforcing performance standards, and
 - (ii) resources).

248 Section 247: supplemental

- (1) Before acting under section 247(2) the regulator must give the registered provider a notice—
 - (a) specifying grounds on which action might be taken under that section,
 - (b) warning the provider that the regulator is considering action under that section, and
 - (c) explaining the effect of this section.
- (2) The notice must specify a period during which the registered provider may make representations to the regulator.
- (3) The period must—
 - (a) be a period of at least 28 days, and
 - (b) begin with the date on which the registered provider receives the notice.
- (4) The regulator must send a copy of a notice under subsection (1) to—

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- (a) the HCA, and
 - (b) any other persons it thinks appropriate (having regard, in particular, to any person who provided information as a result of which the notice is given).
- (5) A notice under subsection (1) must—
- (a) refer to section 125 (voluntary undertaking), and
 - (b) indicate whether or to what extent the regulator would accept a voluntary undertaking instead of, or in mitigation of, action under section 247(2).
- (6) Notice under subsection (1) may be combined with notice under one or more of sections 230, 242, 250 and 252.
- (7) In imposing a requirement the regulator must have regard to views of—
- (a) relevant tenants,
 - (b) the registered provider,
 - (c) the HCA, and
 - (d) if the regulator thinks it appropriate, any relevant local housing authority.
- (8) If the regulator imposes a requirement it must send a copy to the HCA.
- (9) A registered provider may appeal to the High Court against a requirement under section 247(2).

249 Management transfer

- (1) This section applies if as a result of an inquiry under section 206 or an audit under section 210 the regulator is satisfied that—
- (a) the affairs of a registered provider have been mismanaged in relation to social housing, or
 - (b) a transfer of certain of a registered provider's management functions would be likely to improve the management of some or all of its social housing.
- (2) The regulator may require the registered provider to transfer management functions to a specified person.
- (3) A requirement to transfer management functions may be imposed only with the Secretary of State's consent (both as to the transfer and the terms).
- (4) A requirement may relate to—
- (a) the registered provider's affairs generally in so far as they relate to social housing, or
 - (b) specified affairs relating to social housing.
- (5) Transfer shall be on terms and conditions (including as to remuneration) specified in, or determined in accordance with, the requirement.
- (6) A transferee manager shall have—
- (a) any power specified in the requirement, and
 - (b) any other power in relation to the registered provider's affairs required by the manager for the purposes specified in the requirement (including the power to enter into agreements and take other action on behalf of the registered provider).

250 Section 249: supplemental

- (1) Before acting under section 249(2) the regulator must give the registered provider a notice—
 - (a) specifying grounds on which action might be taken under that section,
 - (b) warning the provider that the regulator is considering action under that section, and
 - (c) explaining the effect of this section.
- (2) The notice must specify a period during which the registered provider may make representations to the regulator.
- (3) The period must—
 - (a) be a period of at least 28 days, and
 - (b) begin with the date on which the registered provider receives the notice.
- (4) The regulator must send a copy of a notice under subsection (1) to—
 - (a) the HCA, and
 - (b) any other persons it thinks appropriate (having regard, in particular, to any person who provided information as a result of which the notice is given).
- (5) A notice under subsection (1) must—
 - (a) refer to section 125, and
 - (b) indicate whether or to what extent the regulator would accept a voluntary undertaking under that section instead of, or in mitigation of, action under section 249(2).
- (6) Notice under subsection (1) may be combined with notice under one or more of sections 230, 242, 248 and 252.
- (7) In imposing a requirement the regulator must have regard to views of—
 - (a) relevant tenants,
 - (b) the registered provider,
 - (c) the HCA, and
 - (d) if the regulator thinks it appropriate, any relevant local housing authority.
- (8) If the regulator imposes a requirement it must send a copy to the HCA.
- (9) A registered provider may appeal to the High Court against a requirement under section 249(2).

251 Appointment of manager

- (1) This section applies if the regulator is satisfied that—
 - (a) a registered provider has failed to meet a standard under section 193 or 194, or
 - (b) the affairs of a registered provider have been mismanaged in relation to social housing.
- (2) The regulator may—
 - (a) appoint an individual as a manager of the registered provider, or
 - (b) require the registered provider to appoint an individual as a manager.
- (3) An appointment or requirement may relate to a manager—

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- (a) of the registered provider's affairs generally in so far as they relate to social housing, or
 - (b) of specified affairs relating to social housing.
- (4) Appointment shall be on terms and conditions (including as to remuneration) specified in, or determined in accordance with, the appointment or requirement.
- (5) A manager shall have—
- (a) any power specified in the appointment or requirement, and
 - (b) any other power in relation to the registered provider's affairs required by the manager for the purposes specified in the appointment or requirement (including the power to enter into agreements and take other action on behalf of the registered provider).

252 Section 251: supplemental

- (1) Before acting under section 251(2) the regulator must give the registered provider a notice—
- (a) specifying grounds on which action might be taken under that section,
 - (b) warning the provider that the regulator is considering action under that section, and
 - (c) explaining the effect of this section.
- (2) The notice must specify a period during which the registered provider may make representations to the regulator.
- (3) The period must—
- (a) be a period of at least 28 days, and
 - (b) begin with the date on which the registered provider receives the notice.
- (4) The regulator must send a copy of a notice under subsection (1) to—
- (a) the HCA, and
 - (b) any other persons it thinks appropriate (having regard, in particular, to any person who provided information as a result of which the notice is given).
- (5) A notice under subsection (1) must—
- (a) refer to section 125 (voluntary undertaking), and
 - (b) indicate whether or to what extent the regulator would accept a voluntary undertaking instead of, or in mitigation of, action under section 251(2).
- (6) Notice under subsection (1) may be combined with notice under one or more of sections 230, 242, 248 and 250.
- (7) The regulator must notify the HCA of an appointment or requirement under section 251(2).
- (8) The regulator may require a manager to report to the regulator on the affairs specified in the appointment or requirement under section 251(3).
- (9) A registered provider may appeal to the High Court against an appointment or requirement under section 251(2).

253 Transfer of land

- (1) This section applies if as a result of an inquiry under section 206 or an audit under section 210 the regulator is satisfied that—
 - (a) the affairs of a registered provider have been mismanaged in relation to social housing, or
 - (b) a transfer of land by a registered provider would be likely to improve the management of the land.
- (2) The regulator may require the registered provider to transfer specified land—
 - (a) to the regulator, or
 - (b) to another specified registered provider.
- (3) A requirement may be imposed on a profit-making registered provider only in relation to its social housing and associated land.
- (4) For the purposes of subsection (3) land is associated with social housing if the regulator thinks that it is used in connection with the social housing or its management.
- (5) A requirement may not be imposed on a non-profit registered provider requiring it to transfer land to a profit-making registered provider.
- (6) A requirement may not be imposed on a registered charity.
- (7) A requirement may be imposed on a charity which is not registered (C1), but only for transfer to another charity (C2) whose objects the regulator thinks are similar to those of C1.

254 Section 253: supplemental

- (1) A transfer under section 253 shall be on terms specified in, or determined in accordance with, the requirement.
- (2) The price shall be not less than an amount certified by the district valuer as the amount the property would fetch if sold by a willing seller to another registered provider.
- (3) The terms shall include provision as to the payment of any debts or liabilities in respect of the land (whether or not secured on it).
- (4) A requirement to transfer land may be imposed only with the Secretary of State's consent (both as to the transfer and the terms).
- (5) Where land is transferred to the regulator under section 253(2)(a)—
 - (a) the regulator may dispose of it only to a registered provider, and
 - (b) if it is transferred by a non-profit registered provider, the regulator may dispose of it only to a non-profit registered provider.

255 Amalgamation

- (1) This section applies if as a result of an inquiry under section 206 or an audit under section 210 the regulator is satisfied that—
 - (a) the affairs of a non-profit registered provider which is an industrial and provident society have been mismanaged in relation to social housing, or

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- (b) the management of social housing owned by a non-profit registered provider which is an industrial and provident society would be improved if the provider were amalgamated with another industrial and provident society.
- (2) The regulator may make and execute on behalf of the society an instrument providing for the amalgamation of the society with another industrial and provident society.
- (3) The regulator may act under subsection (2) only with the Secretary of State's consent.
- (4) An instrument providing for the amalgamation of a society ("S1") with another has the same effect as a resolution by S1 under section 50 of the Industrial and Provident Societies Act 1965 (c. 12) (amalgamation of societies by special resolution).
- (5) A copy of an instrument shall be sent to and registered by the Financial Services Authority.
- (6) An instrument does not take effect until the copy is registered.
- (7) The copy must be sent for registration during the period of 14 days beginning with the date of execution; but a copy registered after that period is valid.
- (8) Any body created by virtue of an amalgamation—
 - (a) must be registered by the regulator and designated as a non-profit organisation, and
 - (b) pending registration shall be treated as registered and designated as a non-profit organisation.

Restrictions on dealings

256 Restrictions on dealings during inquiry

- (1) The regulator may make an order under this section if—
 - (a) an inquiry under section 206 is in progress in respect of a non-profit registered provider, and
 - (b) either of the following cases applies.
- (2) Case 1 applies if the regulator has reasonable grounds for believing—
 - (a) that the affairs of the registered provider have been mismanaged, and
 - (b) that the interests of tenants of the registered provider, or its assets, require protection.
- (3) Case 2 applies if as a result of an inquirer's interim report under section 207 the regulator is satisfied that the affairs of the registered provider have been mismanaged.
- (4) The regulator may order a bank or other person who holds money or securities on behalf of the registered provider not to part with the money or securities without the regulator's consent.
- (5) The regulator may make an order restricting—
 - (a) the transactions that may be entered into by the registered provider, or
 - (b) the nature and amounts of payments that may be made by it.
- (6) An order under subsection (5) may in particular provide that transactions may not be entered into or payments made without the regulator's consent.

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- (7) The regulator may make an order in respect of a registered provider that is a registered charity only if it has received public assistance.
- (8) An order ceases to have effect at the end of the period of 6 months beginning with the day on which the inquirer's final report under section 207 is made.
- (9) But the regulator—
 - (a) may revoke the order before that time;
 - (b) may by order extend it for a specified period of up to 6 months.

257 Restrictions on dealings following inquiry

- (1) This section applies if as a result of an inquiry under section 206 or an audit under section 210 the regulator is satisfied that the affairs of a non-profit registered provider have been mismanaged.
- (2) The regulator may order a bank or other person who holds money or securities on behalf of the registered provider not to part with the money or securities without the regulator's consent.
- (3) The regulator may make an order restricting—
 - (a) the transactions that may be entered into by the registered provider, or
 - (b) the nature and amounts of payments that may be made by it.
- (4) An order under subsection (3) may in particular provide that transactions may not be entered into or payments made without the regulator's consent.
- (5) The regulator may make an order in respect of a registered provider that is a registered charity only if it has received public assistance.
- (6) An order under this section has effect until revoked by the regulator.

258 Restrictions on dealings: supplemental

- (1) Before making an order under section 256 or 257 the regulator must take all reasonable steps to give notice to—
 - (a) the registered provider, and
 - (b) in the case of an order under section 256(4) or 257(2), the person to whom the order is directed.
- (2) Contravention of an order under section 256(4) or 257(2) is an offence.
- (3) A person guilty of an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) Proceedings for an offence may be brought only by or with the consent of—
 - (a) the regulator, or
 - (b) the Director of Public Prosecutions.

Suspension and removal of officers

259 Suspension during inquiry

- (1) The regulator may make an order under this section if—
 - (a) an inquiry under section 206 is in progress in respect of a non-profit registered provider, and
 - (b) either of the following cases applies.
- (2) Case 1 applies if the regulator has reasonable grounds for believing—
 - (a) that the affairs of the registered provider have been mismanaged, and
 - (b) that the interests of tenants of the registered provider, or its assets, require protection.
- (3) Case 2 applies if as a result of an inquirer's interim report under section 207 the regulator is satisfied that the affairs of the registered provider have been mismanaged.
- (4) The regulator may by order suspend any officer, employee or agent of the registered provider who it thinks has contributed to the failure or mismanagement.
- (5) The regulator may suspend an officer, employee or agent of a registered charity only if the charity has received public assistance.
- (6) An order ceases to have effect at the end of the period of 6 months beginning with the day on which the inquirer's final report under section 207 is made.
- (7) But the regulator may revoke an order before the end of that period.
- (8) The regulator shall notify the Charity Commission if it suspends an officer, employee or agent of a registered charity.

260 Removal or suspension following inquiry

- (1) This section applies if as a result of an inquiry under section 206 or an audit under section 210 the regulator is satisfied that the affairs of a non-profit registered provider have been mismanaged.
- (2) The regulator may by order remove any officer, employee or agent of the registered provider who it thinks has contributed to the failure or mismanagement.
- (3) Pending a decision whether to remove an officer, employee or agent, the regulator may by order suspend the person for a specified period of up to 6 months.
- (4) The regulator may remove or suspend an officer, employee or agent of a registered charity only if the charity has received public assistance.
- (5) Before making an order the regulator must take all reasonable steps to give at least 14 days' notice to—
 - (a) the person, and
 - (b) the registered provider.
- (6) The regulator shall notify the Charity Commission if it removes or suspends an officer, employee or agent of a registered charity.

261 Suspension under section 259 or 260: supplemental

- (1) This section applies where the regulator suspends an officer, employee or agent of a registered provider under section 259 or 260.
- (2) The regulator may give directions to the registered provider about—
 - (a) the performance of the suspended person’s functions, and
 - (b) any other matter arising from the suspension.
- (3) The regulator may appoint a person to perform the suspended person’s functions.

262 Disqualification of removed person

- (1) A person is disqualified from acting as an officer of a registered provider if the person has been removed under—
 - (a) section 260, or
 - (b) paragraph 24(2)(a) of Schedule 1 to the Housing Act 1996 (c. 52), section 30(1)(a) of the Housing Associations Act 1985 (c. 69) or section 20(1)(a) of the Housing Act 1974 (c. 44) (other similar provisions).
- (2) The regulator may waive a disqualification either generally or in relation to a particular registered provider or class of registered providers.
- (3) A waiver may be granted only on an application by the disqualified person.
- (4) The regulator shall notify a person whose disqualification is waived.
- (5) If a disqualified person acts as an officer of a registered provider, the person’s acts are not invalid by reason only of the disqualification.

263 Register of disqualified persons

- (1) The regulator shall maintain a register of persons disqualified under section 262.
- (2) The register must show details of any waivers.
- (3) The regulator shall make the register available for inspection by the public.

264 Acting while disqualified: offence

- (1) It is an offence for a person to act as an officer of a registered provider in respect of which the person is disqualified under section 262.
- (2) A person guilty of an offence is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (3) Proceedings for an offence may be brought only by or with the consent of—
 - (a) the regulator, or
 - (b) the Director of Public Prosecutions.

- (4) In relation to an offence committed before the commencement of section 282 of the Criminal Justice Act 2003 (c. 44) (short sentences) the reference in subsection (2)(a) to 12 months shall have effect as if it were a reference to 6 months.

265 Acting while disqualified: other consequences

- (1) This section applies where the regulator is satisfied that a person—
- (a) has acted as an officer of a registered provider in respect of which the person is disqualified under section 262, and
 - (b) in doing so, has received payments or other benefits from the registered provider.
- (2) The regulator may require the person to repay the sum or, as the case may be, a specified amount representing the whole or part of the value of the benefit.
- (3) If a person fails to comply with a requirement the registered provider may recover the sum or specified amount as a debt.

266 Removal of officers

- (1) The regulator may by order remove an officer of a non-profit registered provider if a Case listed in this section applies to the officer.
- (2) Case 1 applies to a person who has been adjudged bankrupt.
- (3) Case 2 applies to a person who has made an arrangement with creditors.
- (4) Case 3 applies to a person who is subject to a disqualification order or a disqualification undertaking under the Company Directors Disqualification Act 1986 (c. 46) or equivalent legislation in Northern Ireland.
- (5) Case 4 applies to a person who is subject to an order under section 429(2) of the Insolvency Act 1986 (c. 45) (disabilities on revocation of county court administration order).
- (6) Case 5 applies to a person who is disqualified under section 72 of the Charities Act 1993 (c. 10) from being a charity trustee.
- (7) Case 6 applies to a person who is incapable of acting by reason of mental disorder.
- (8) Case 7 applies to a person who is impeding the proper management of the registered provider by reason of absence or failure to act.

267 Section 266: supplemental

- (1) Before making an order under section 266 in respect of an officer the regulator must take all reasonable steps to give at least 14 days' notice to—
- (a) the officer, and
 - (b) the registered provider.
- (2) An order may be made in respect of an officer of a registered charity only if the charity has received public assistance.

268 Appeal against removal or suspension

A person removed or suspended under section 259, 260 or 266 may appeal to the High Court.

269 Appointment of new officers

- (1) The regulator may by order appoint a person as an officer of a non-profit registered provider—
 - (a) to replace an officer removed by order under section 266,
 - (b) where there are no officers, or
 - (c) if the regulator thinks an additional officer is necessary for the proper management of the body's affairs.
- (2) The regulator may appoint more than a minority of the officers of a registered provider only if—
 - (a) the provider has fewer officers than required by its constitution, or
 - (b) its constitution does not specify a minimum number of officers.
- (3) Subsection (1) overrides any restriction on eligibility or numbers of officers imposed by the body's constitution.
- (4) An order appointing an officer shall specify the period for which, and the terms on which, the office is to be held; but—
 - (a) on expiry the regulator may by order renew the appointment, and
 - (b) the officer may resign or retire in accordance with the registered provider's constitution.
- (5) An officer appointed by order has the same rights, powers and obligations as an officer appointed under the registered provider's constitution.
- (6) The regulator may exercise the power in subsection (1) in respect of a registered charity only if—
 - (a) a condition in section 274 is satisfied, and
 - (b) the regulator has consulted the Charity Commission.