



# Housing and Planning Act 2016

## 2016 CHAPTER 22

### PART 4

#### SOCIAL HOUSING IN ENGLAND

### CHAPTER 5

#### INSOLVENCY OF REGISTERED PROVIDERS OF SOCIAL HOUSING

##### *Restrictions on other insolvency procedures*

#### **104 Winding-up orders**

- (1) This section applies if a person other than the Secretary of State petitions for the winding-up of a registered provider that is—
- (a) a company,
  - [<sup>F1</sup>(aa) a limited liability partnership,]
  - (b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014, or
  - (c) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.
- (2) The court may not exercise its powers on a winding-up petition unless—
- (a) notice of the petition has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since that notice was given, or
  - (b) the Regulator of Social Housing has waived the notice requirement in paragraph (a).

[<sup>F2</sup>(2A) A notice under subsection (2) must—

- (a) be given in writing,
- (b) be signed by, or on behalf of, the petitioner,
- (c) specify the date the petition was presented, and

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- (d) contain a copy of the petition.
- (2B) Subsection (2C) applies if a person gives a notice purporting to be a notice under subsection (2) but which does not meet the requirements of any (or all) of paragraphs (b), (c) or (d) of subsection (2A).
- (2C) The Regulator of Social Housing may, by notice in writing to the petitioner, treat the purported notice as notice given under subsection (2)(a) (and a purported notice so treated will be taken as having been given at the time the purported notice was given).]
- (3) If an application for a housing administration order in relation to the registered provider is made to the court in accordance with section 99 before a winding-up order is made on the petition, the court may exercise its powers under section 100 (instead of exercising its powers on the petition).
- (4) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (2)(a).
- (5) The Regulator of Social Housing may waive the notice requirement under subsection (2)(a) only with the consent of the Secretary of State.
- (6) References in this section to the court's powers on a winding-up petition are to—
- (a) its powers under section 125 of the Insolvency Act 1986 (other than its power of adjournment), and
  - (b) its powers under section 135 of the Insolvency Act 1986.

#### Textual Amendments

- F1** S. 104(1)(aa) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 1 para. 5](#); [S.I. 2024/437](#), reg. 2(w)(ii)
- F2** S. 104(2A)-(2C) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 2 para. 2](#); [S.I. 2024/437](#), reg. 2(x)

#### Commencement Information

- I1** S. 104 in force at 5.7.2018 by [S.I. 2018/805](#), [reg. 3\(a\)](#)

## 105 Voluntary winding up

- (1) This section applies to a private registered provider that is—
- (a) a company,
  - [<sup>F3</sup>(aa) a limited liability partnership,]
  - (b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014, or
  - (c) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.
- (2) The registered provider has no power to pass a resolution for voluntary winding up without the permission of the court.
- (3) Permission may be granted by the court only on an application made by the registered provider.
- (4) The court may not grant permission unless—

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- (a) notice of the application has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since that notice was given, or
- (b) the Regulator of Social Housing has waived the notice requirement in paragraph (a).

[<sup>F4</sup>(4A) A notice under subsection (4) must—

- (a) be given in writing,
- (b) be signed by, or on behalf of, the registered provider,
- (c) specify the date the application was made, and
- (d) contain a copy of the application.

(4B) Subsection (4C) applies if a person gives a notice purporting to be a notice under subsection (4) but which does not meet the requirements of any (or all) of paragraphs (b), (c) or (d) of subsection (4A).

(4C) The Regulator of Social Housing may, by notice in writing to the registered provider, treat the purported notice as notice given under subsection (4)(a) (and a purported notice so treated will be taken as having been given at the time the purported notice was given).]

(5) If an application for a housing administration order in relation to the registered provider is made to the court in accordance with section 99 after an application for permission under this section has been made and before it is granted, the court may exercise its powers under section 100.

(6) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (4)(a).

(7) The Regulator of Social Housing may waive the notice requirement under subsection (4)(a) only with the consent of the Secretary of State.

(8) In this section “a resolution for voluntary winding up” has the same meaning as in the Insolvency Act 1986.

#### Textual Amendments

**F3** S. 105(1)(aa) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\), s. 46\(3\), Sch. 1 para. 6](#); S.I. 2024/437, reg. 2(w)(ii)

**F4** S. 105(4A)-(4C) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\), s. 46\(3\), Sch. 2 para. 3](#); S.I. 2024/437, reg. 2(x)

#### Commencement Information

**I2** S. 105 in force at 5.7.2018 by [S.I. 2018/805, reg. 3\(a\)](#)

## 106 Making of ordinary administration orders

(1) This section applies if a person other than the Secretary of State makes an ordinary administration application in relation to a private registered provider that is—

(a) a company,<sup>F5</sup> ...

[<sup>F6</sup>(aa) a limited liability partnership, or]

(b) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.

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- (2) The court must dismiss the application if—
- (a) a housing administration order is in force in relation to the registered provider, or
  - (b) a housing administration order has been made in relation to the registered provider but is not yet in force.
- (3) If subsection (2) does not apply, the court, on hearing the application, must not exercise its powers under paragraph 13 of Schedule B1 to the Insolvency Act 1986 (other than its power of adjournment) unless—
- (a) either—
    - (i) notice of the application has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since that notice was given, or
    - (ii) the Regulator of Social Housing has waived the notice requirement in sub-paragraph (i), and
  - (b) there is no application for a housing administration order which is outstanding.
- [<sup>F7</sup>(3A) A notice under subsection (3) must—
- (a) be given in writing,
  - (b) be signed by, or on behalf of, the person who made the ordinary administration application,
  - (c) specify the date the application was made, and
  - (d) contain a copy of the application.
- (3B) Subsection (3C) applies if a person gives a notice purporting to be a notice under subsection (3) but which does not meet the requirements of any (or all) of paragraphs (b), (c) or (d) of subsection (3A).
- (3C) The Regulator of Social Housing may, by notice in writing to the person who made the ordinary administration application, treat the purported notice as notice given under subsection (3)(a)(i) (and a purported notice so treated will be taken as having been given at the time the purported notice was given).]
- (4) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (3)(a).
  - (5) Paragraph 44 of Schedule B1 to the Insolvency Act 1986 (interim moratorium) does not prevent, or require the permission of the court for, the making of an application for a housing administration order.
  - (6) On the making of a housing administration order in relation to a registered provider, the court must dismiss any ordinary administration application made in relation to the registered provider which is outstanding.
  - (7) The Regulator of Social Housing may waive the notice requirement under subsection (3)(a)(i) only with the consent of the Secretary of State.
  - (8) In this section “ordinary administration application” means an application in accordance with paragraph 12 of Schedule B1 to the Insolvency Act 1986.

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### Textual Amendments

- F5** Word in s. 106(1)(a) omitted (1.4.2024) by virtue of [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 1 para. 7\(a\)](#); S.I. 2024/437, reg. 2(w)(ii)
- F6** S. 106(1)(aa) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 1 para. 7\(b\)](#); S.I. 2024/437, reg. 2(w)(ii)
- F7** S. 106(3A)-(3C) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 2 para. 4](#); S.I. 2024/437, reg. 2(x)

### Commencement Information

- I3** S. 106 in force at 5.7.2018 by S.I. 2018/805, [reg. 3\(a\)](#)

## 107 Administrator appointments by creditors [<sup>F8</sup> etc]

(1) Subsections (2) to (4) make provision about appointments under paragraph 14 or 22 of Schedule B1 to the Insolvency Act 1986 (powers to appoint administrators) in relation to a private registered provider that is—

- (a) a company, <sup>F9</sup>...
- [<sup>F10</sup>(aa) a limited liability partnership, or]
- (b) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.

(2) If in any case—

- (a) a housing administration order is in force in relation to the registered provider,
- (b) a housing administration order has been made in relation to the registered provider but is not yet in force, or
- (c) an application for a housing administration order in relation to the registered provider is outstanding,

a person may not take any step to make an appointment.

(3) In any other case, an appointment takes effect only if each of the following conditions are met.

(4) The conditions are—

- (a) either—
  - (i) that notice of the appointment has been given to the Regulator of Social Housing <sup>F11</sup>... and that a period of 28 days has elapsed since that notice was given, or
  - (ii) that the Regulator of Social Housing has waived the notice requirement in sub-paragraph (i),
- (b) that there is no outstanding application to the court for a housing administration order in relation to the registered provider, and
- (c) that the making of an application for a housing administration order in relation to the registered provider has not resulted in the making of a housing administration order which is in force or is still to come into force.

[<sup>F12</sup>(4A) A notice under subsection (4) must—

- (a) be given in writing,
- (b) be signed by, or on behalf of, the person making the appointment,
- (c) specify the date the appointment was made, and

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- (d) contain copies of every document in relation to the appointment that is filed or lodged with the court in accordance with paragraph 18 or 29 of Schedule B1 to the Insolvency Act 1986.
- (4B) Subsection (4C) applies if a person gives a notice purporting to be a notice under subsection (4) but which does not meet the requirements of any (or all) of paragraphs (b), (c) or (d) of subsection (4A).
- (4C) The Regulator of Social Housing may, by notice in writing to the person making the appointment, treat the purported notice as notice given under subsection (4)(a)(i) (and a purported notice so treated will be taken as having been given at the time the purported notice was given).]
- (5) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (4)(a)<sup>F13</sup>....
- (6) The Regulator of Social Housing may waive the notice requirement under subsection (4)(a)(i) only with the consent of the Secretary of State.
- (7) Paragraph 44 of Schedule B1 to the Insolvency Act 1986 (interim moratorium) does not prevent, or require the permission of the court for, the making of an application for a housing administration order at any time before the appointment takes effect.

#### Textual Amendments

- F8** Word in s. 107 heading inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 2 para. 5\(a\)](#); S.I. 2024/437, reg. 2(x)
- F9** Word in s. 107(1)(a) omitted (1.4.2024) by virtue of [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 1 para. 8\(a\)](#); S.I. 2024/437, reg. 2(w)(ii)
- F10** S. 107(1)(aa) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 1 para. 8\(b\)](#); S.I. 2024/437, reg. 2(w)(ii)
- F11** Words in s. 107(4)(a)(i) omitted (1.4.2024) by virtue of [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 2 para. 5\(b\)](#); S.I. 2024/437, reg. 2(x)
- F12** S. 107(4A)-(4C) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 2 para. 5\(c\)](#); S.I. 2024/437, reg. 2(x)
- F13** Words in s. 107(5) omitted (1.4.2024) by virtue of [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 2 para. 5\(d\)](#); S.I. 2024/437, reg. 2(x)

#### Commencement Information

- I4** S. 107 in force at 5.7.2018 by [S.I. 2018/805](#), [reg. 3\(a\)](#)

## 108 Enforcement of security

- (1) This section applies in relation to a private registered provider<sup>F14</sup>...
- (2) A person may not take any step to enforce a security over property of the registered provider unless—
- (a) notice of the intention to do so has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since the notice was given, or
  - (b) the Regulator of Social Housing has waived the notice requirement in paragraph (a).
- [<sup>F15</sup>(2A) A notice under subsection (2) must—

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- (a) be given in writing, and
  - (b) be signed by, or on behalf of, the person intending to enforce the security.
- (2B) Subsection (2C) applies if a person gives a notice purporting to be a notice under subsection (2) but which does not meet the requirement of paragraph (b) of subsection (2A).
- (2C) The Regulator of Social Housing may, by notice in writing to the person intending to enforce the security, treat the purported notice as notice given under subsection (2)(a) (and a purported notice so treated will be taken as having been given at the time the purported notice was given).]

<sup>F16</sup>(3) .....

[<sup>F17</sup>(3A) In the case of a registered provider that is a charity registered under the Charities Act 2011 which is not a body corporate, the reference to the property of the registered provider is to the property held on the trusts of the charity (and for this purpose “trusts” has the same meaning as in the Charities Act 2011, see section 353 of that Act).]

- (4) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (2)(a).
- (5) The Regulator of Social Housing may waive the notice requirement under subsection (2)(a) only with the consent of the Secretary of State.

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**Textual Amendments**

- F14** Words in s. 108(1) omitted (1.4.2024) by virtue of [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 2 para. 6\(a\)](#); S.I. 2024/437, reg. 2(x)
- F15** S. 108(2A)-(2C) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 2 para. 6\(b\)](#); S.I. 2024/437, reg. 2(x)
- F16** S. 108(3) omitted (1.4.2024) by virtue of [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 2 para. 6\(c\)](#); S.I. 2024/437, reg. 2(x)
- F17** S. 108(3A) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 2 para. 6\(d\)](#); S.I. 2024/437, reg. 2(x)

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**Commencement Information**

- I5** S. 108 in force at 5.7.2018 by S.I. 2018/805, [reg. 3\(a\)](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 95(1)(ia) inserted by [2023 c. 36 Sch. 1 para. 2](#)
- s. 100(7)(aa) inserted by [2023 c. 36 Sch. 1 para. 3](#)
- s. 172(1)(a) words renumbered as s. 172(1)(a) by [2017 c. 20 s. 26\(8\)\(a\)\(i\)](#)
- s. 172(1)(b) inserted by [2017 c. 20 s. 26\(8\)\(a\)\(ii\)](#)