

SCHEDULES

SCHEDULE 9

Section 137(1)

THE NEW HOMES OMBUDSMAN SCHEME

Appointment of the new homes ombudsman

- 1 The scheme must include provision about the appointment of the new homes ombudsman.

Membership

- 2 (1) The scheme must include provision about the procedure for becoming and remaining a member of the scheme.
- (2) That provision may include—
- (a) a requirement to pay a fee;
 - (b) a requirement to provide information;
 - (c) a requirement to have internal procedures in place for the handling and resolution of complaints about matters in relation to which complaints may be made under the scheme.
- (3) If the scheme includes a requirement mentioned in [sub-paragraph \(2\)\(c\)](#), it must also include a requirement to publish the procedures.
- 3 The scheme may provide for different categories of member and the provision mentioned in [paragraph 2](#) (including provision about fees) may differ as between such categories.

Fees

- 4 The fees payable by a member may be calculated by reference to the total of the costs incurred, or to be incurred, in the operation of the scheme (including costs unconnected with the member in question).
- 5 Where a scheme is maintained by a person other than—
- (a) the Secretary of State, or
 - (b) a person acting on behalf of the Secretary of State,
- fees may be set at a level such that the total of all fees payable by members exceeds the total of the costs of operating the scheme.

Complaints under the scheme: subject matter and procedure

- 6 The scheme must include provision about—
- (a) the matters in relation to which complaints against members of the scheme may be made under the scheme (which may include complaints about non-

Status: This is the original version (as it was originally enacted).

compliance with a code of practice issued or approved under section 142),
and

(b) the procedure for making complaints under the scheme.

7 The provision mentioned in [paragraph 6\(b\)](#)—

(a) must not include any requirement to pay a fee;

(b) may differ as between different categories of member;

(c) may include provision about the use of any internal procedures a member has in place for the handling or resolution of complaints.

Complaints under the scheme: investigation and determination

8 (1) The scheme must include provision about the investigation and determination by the new homes ombudsman of complaints made under the scheme.

(2) That provision must include provision—

(a) requiring the new homes ombudsman, in determining a complaint, to have regard to any code of practice issued or approved under section 142,

(b) for the new homes ombudsman to require members of the scheme to provide information, and

(c) for the new homes ombudsman to require members of the scheme to provide complainants whose complaints are determined to be well-founded with any one or more of the forms of redress in [paragraph 9](#).

9 The forms of redress are—

(a) paying compensation;

(b) making an apology;

(c) providing an explanation;

(d) taking such other action in the interests of the complainant as the new homes ombudsman may specify.

Enforcement of determinations

10 (1) The scheme must include provision about the enforcement of determinations made by the new homes ombudsman.

(2) That provision may include provision for the expulsion of a member from the scheme (and the requirement in section 137(1)(a) is not to be read as preventing the new homes ombudsman scheme from including such provision).

(3) If provision described in [sub-paragraph \(2\)](#) is included in the scheme, provision must also be made about the circumstances in which an expelled member can rejoin the scheme.

Making of recommendations

11 (1) The scheme must include provision about the making of improvement recommendations by the new homes ombudsman where following the investigation of a complaint the ombudsman identifies widespread or regular unacceptable standards of conduct or standards of quality of work on the part of members of the scheme.

- (2) “Improvement recommendations” are recommendations about changes that members may make in order to improve standards of conduct or standards of quality of work.

Predecessor schemes

- 12 The scheme must include provision about the acceptance and handling of complaints transferred from a scheme previously available under section 136 but which is no longer available.

Complaints about the scheme

- 13 The scheme must include provision about how complaints about the operation of the scheme may be made by—
- (a) members of the scheme, and
 - (b) persons who have asked for a complaint to be investigated under the scheme.

Co-operation

- 14 (1) The scheme may include provision about co-operation with persons who exercise functions under other redress schemes and, in particular, provision about arrangements for a person exercising functions under the scheme to do so jointly with a person exercising functions under another redress scheme, including for the making of joint determinations by the new homes ombudsman and an independent person making determinations under another redress scheme.
- (2) In [sub-paragraph \(1\)](#), “redress scheme” has the same meaning as in section 137.

Provision of information

- 15 (1) Where the scheme is maintained by a person other than the Secretary of State, the scheme must include provision about the provision of information to the Secretary of State, the Welsh Ministers, the Scottish Ministers and the relevant Northern Ireland department.
- (2) In this paragraph, “the relevant Northern Ireland department” means the Northern Ireland department designated for the purposes of this paragraph by the First Minister and deputy First Minister acting jointly.

Reports

- 16 The scheme must include provision about the making of reports on the operation of the scheme.