



Housing Act 1996

1996 CHAPTER 52

PART I

[^{F1}SOCIAL RENTED SECTOR [^{F1}REGULATED BY THE WELSH MINISTERS]]

CHAPTER IV

GENERAL POWERS OF THE [^{F1}RELEVANT AUTHORITY]

Insolvency, &c. of registered social landlord

39 Insolvency, &c. of registered social landlord: scheme of provisions.

(1) The following sections make provision—

- (a) for notice to be given to [^{F1}the Welsh Ministers] of any proposal to take certain steps in relation to a registered social landlord (section 40), and for further notice to be given when any such step is taken (section 41),
- (b) for a moratorium on the disposal of land, and certain other assets, held by the registered social landlord (sections 42 and 43),
- [^{F2}(ba) for the appointment of an interim manager during a moratorium (section 43A),]
- (c) for proposals by [^{F1}the Welsh Ministers] as to the future ownership and management of the land held by the landlord (section 44), which are binding if agreed (section 45),
- (d) for the appointment of a manager to implement agreed proposals (section 46) and as to the powers of such a manager (sections 47 and 48),
- (e) for the giving of assistance by [^{F1}the Welsh Ministers] (section 49), and
- (f) for application to the court to secure compliance with the agreed proposals (section 50).

(2) In those sections—

Status: Point in time view as at 26/01/2019.

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“disposal” means sale, lease, mortgage, charge or any other disposition, and includes the grant of an option;

“secured creditor” means a creditor who holds a mortgage or charge (including a floating charge) over land held by the landlord or any existing or future interest of the landlord in rents or other receipts from land; and

“security” means any mortgage, charge or other security.

- (3) The [^{F3}Welsh Ministers] may make provision by order defining for the purposes of those sections what is meant by a step to enforce security over land.

Any such order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of [^{F4}the National Assembly for Wales] .

Textual Amendments

- F1** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2 \(with Sch.\)](#)
- F2** S. 39(1)(ba) inserted (18.10.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\), s. 90\(2\), Sch. para. 9; S.I. 2011/2475, arts. 1\(2\), 2\(v\)](#)
- F3** Words in s. 39(3) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 62\(a\), 325\(1\); S.I. 2010/862, art. 2 \(with Sch.\)](#)
- F4** Words in s. 39(3) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 63, 325\(1\); S.I. 2010/862, art. 2 \(with Sch.\)](#)

40 Initial notice to be given to [^{F1}the Welsh Ministers].

- (1) Notice must be given to [^{F1}the Welsh Ministers] before any of the steps mentioned below is taken in relation to a registered social landlord.

The person by whom the notice must be given is indicated in the second column.

- (2) Where the registered social landlord is [^{F5}a registered society], the steps and the person by whom notice must be given are—

Any step to enforce any security over land held by the landlord.	The person proposing to take the step.
Presenting a petition for the winding up of the landlord.	The petitioner.
Passing a resolution for the winding up of the landlord.	The landlord.

- (3) Where the registered social landlord is [^{F6}a company] (including a registered charity), the steps and the person by whom notice must be given are—

Any step to enforce any security over land held by the landlord.	The person proposing to take the step.
Applying for an administration order.	The applicant.
Presenting a petition for the winding up of the landlord.	The petitioner.

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Passing a resolution for the winding up of the landlord. The landlord.

- (4) Where the registered social landlord is a registered charity (other than [F6 a company]), the steps and the person by whom notice must be given are—

Any step to enforce any security over land held by the landlord. The person proposing to take the step.

[F7(5)]

- (6) Any step purportedly taken without the requisite notice being given under this section is ineffective.

[F8(7) Subsections (8) and (9) apply in relation to the reference in subsection (3) to applying for an administration order.

- (8) In a case where an administrator is appointed under paragraph 14 or 22 of Schedule B1 to the Insolvency Act 1986 (appointment by floating charge holder, company or directors)—

- (a) the reference includes a reference to appointing an administrator under that paragraph, and
- (b) in respect of an appointment under either of those paragraphs the reference to the applicant shall be taken as a reference to the person making the appointment.

- (9) In a case where a copy of a notice of intention to appoint an administrator under either of those paragraphs is filed with the court—

- (a) the reference shall be taken to include a reference to the filing of the copy of the notice, and
- (b) in respect of the filing of a copy of a notice of intention to appoint under either of those paragraphs the reference to the applicant shall be taken as a reference to the person giving the notice.]

Textual Amendments

- F1** Words in Pt. I substituted (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), ss. 61(7), 325(1); S.I. 2010/862, art. 2 (with Sch.)
- F5** Words in Act substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, Sch. 4 para. 56 (with Sch. 5)
- F6** Words in s. 40(3)(4) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), Sch. 1 para. 161(2)(b) (with art. 10)
- F7** S. 40(5) omitted (15.8.2018) by virtue of The Regulation of Registered Social Landlords (Wales) Act 2018 (Consequential Amendments) Regulations 2018 (S.I. 2018/870), regs. 1(2), 3
- F8** S. 40(7)-(9) added (15.9.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 17 para. 51 (with s. 249(1)-(3)); S.I. 2003/2093, art. 2(1), Sch. 1 (with art. 3)

41 Further notice to be given to [F1 the Welsh Ministers].

- (1) Notice must be given to [F1 the Welsh Ministers] as soon as may be after any of the steps mentioned below is taken in relation to a registered social landlord.

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The person by whom the notice must be given is indicated in the second column.

- (2) Where the registered social landlord is [^{F5}a registered society], the steps and the person by whom notice must be given are—

The taking of a step to enforce any security over land held by the landlord.	The person taking the step.
The making of an order for the winding up of the landlord.	The petitioner.
The passing of a resolution for the winding up of the landlord.	The landlord.

- (3) Where the registered social landlord is [^{F9}a company] (including a registered charity), the steps and the person by whom notice must be given are—

The taking of a step to enforce any security over land held by the landlord.	The person taking the step.
The making of an administration order.	The person who applied for the order.
The making of an order for the winding up of the landlord.	The petitioner.
The passing of a resolution for the winding up of the landlord.	The landlord.

- (4) Where the registered social landlord is a registered charity (other than [^{F9}a company]), the steps and the person by whom notice must be given are—

The taking of a step to enforce any security over land held by the landlord.	The person taking the step.
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- (5) Failure to give notice under this section does not affect the validity of any step taken; but the period of 28 days mentioned in section 43(1) (period after which moratorium on disposal of land, &c. ends) does not begin to run until any requisite notice has been given under this section.

[^{F10}(6) In subsection (3)—

- (a) the reference to the making of an administration order includes a reference to appointing an administrator under paragraph 14 or 22 of Schedule B1 to the Insolvency Act 1986 (administration), and
- (b) in respect of an appointment under either of those paragraphs the reference to the applicant shall be taken as a reference to the person making the appointment.]

Textual Amendments

F1 Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2 \(with Sch.\)](#)

F5 Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\), s. 154, Sch. 4 para. 56 \(with Sch. 5\)](#)

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- F9** Words in s. 41(3)(4) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 161\(2\)\(b\)](#) (with art. 10)
- F10** S. 41(6) added (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 17 para. 52](#) (with s. 249(1)-(3)); [S.I. 2003/2093](#), art. 2(1), [Sch. 1](#) (with art. 3)

42 Moratorium on disposal of land, &c.

- (1) Where any of the steps mentioned in section 41 is taken in relation to a registered social landlord, there is a moratorium on the disposal of land held by the landlord.
- (2) During the moratorium the consent of [^{F1}the Welsh Ministers] under this section is required (except as mentioned below) for any disposal of land held by the landlord, whether by the landlord itself or any person having a power of disposal in relation to the land.

Consent under this section may be given in advance and may be given subject to conditions.

[^{F11}(3) Consent is not required under this section for—

- (a) a letting of land under an assured tenancy or an assured agricultural occupancy, or what would be an assured tenancy or an assured agricultural occupancy but for any of paragraphs 4 to 8, or paragraph 12(1)(h), or any of paragraphs 12ZA to 12B, of Schedule 1 to the Housing Act 1988;
 - (b) a letting of land under a secure tenancy or what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 to the Housing Act 1985;
 - (c) a disposal under Part 5 of the Housing Act 1985 (the right to buy) or under the right conferred by section 16 (the right to acquire).]
- (4) A disposal made without the consent required by this section is void.
 - (5) Nothing in this section prevents a liquidator from disclaiming any land held by the landlord as onerous property.
 - (6) The provisions of this section apply in relation to any existing or future interest of the landlord in rent or other receipts arising from land as they apply to an interest in land.

Textual Amendments

- F1** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), [ss. 61\(7\)](#), [325\(1\)](#); [S.I. 2010/862](#), art. 2 (with [Sch.](#))
- F11** S. 42(3) substituted (15.8.2018) by [Regulation of Registered Social Landlords \(Wales\) Act 2018 \(anaw 4\)](#), s. 19(2), [Sch. 2 para. 11](#); [S.I. 2018/777](#), art. 3(g)

43 Period of moratorium.

- (1) The moratorium in consequence of the taking of any step as mentioned in section 41—
 - (a) begins when the step is taken, and
 - (b) ends at the end of the period of 28 days beginning with the day on which notice of its having been taken was given to [^{F1}the Welsh Ministers] under that section,
 subject to the following provisions.

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- (2) The taking of any further step as mentioned in section 41 at a time when a moratorium is already in force does not start a further moratorium or affect the duration of the existing one.
- (3) A moratorium may be extended from time to time with the consent of all the landlord's secured creditors.

Notice of any such extension shall be given by [^{F1}the Welsh Ministers] to—

- (a) the landlord, and
- (b) any liquidator, administrative receiver, receiver or administrator appointed in respect of the landlord or any land held by it.

- (4) If during a moratorium [^{F1}the Welsh Ministers] considers that the proper management of the landlord's land can be secured without making proposals under section 44 (proposals as to ownership and management of landlord's land), [^{F1}the Welsh Ministers] may direct that the moratorium shall cease to have effect.

Before making any such direction [^{F1}the Welsh Ministers] shall consult the person who took the step which brought about the moratorium.

- (5) When a moratorium comes to an end, or ceases to have effect under subsection (4), [^{F1}the Welsh Ministers] shall give notice of that fact to the landlord and the landlord's secured creditors.
- (6) When a moratorium comes to an end (but not when it ceases to have effect under subsection (4)), the following provisions of this section apply.

The [^{F12}Relevant Authority's] notice shall, in such a case, inform the landlord and the landlord's secured creditors of the effect of those provisions.

- (7) If any further step as mentioned in section 41 is taken within the period of three years after the end of the original period of the moratorium, the moratorium may be renewed with the consent of all the landlord's secured creditors (which may be given before or after the step is taken).

Notice of any such renewal shall be given by [^{F1}the Welsh Ministers] to the persons to whom notice of an extension is required to be given under subsection (3).

- (8) If a moratorium ends without any proposals being agreed, then, for a period of three years the taking of any further step as mentioned in section 41 does not start a further moratorium except with the consent of the landlord's secured creditors as mentioned in subsection (7) above.

Textual Amendments

F1 Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2](#) (with Sch.)

F12 Words in Pt. I substituted (1.11.1998) by [1998 c. 38, s. 140, Sch. 16 para. 82\(1\)\(2\)](#) (with ss. 139(2), 141(1), 143(2)); [S.I. 1998/2244, art.5](#).

[^{F13}43A Appointment of interim manager

- (1) During a moratorium the Welsh Ministers may appoint an interim manager of the registered social landlord.

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- (2) An appointment may relate to the registered social landlord's affairs generally or to affairs specified in the appointment.
- (3) But an appointment may not relate to affairs relating only to the provision of housing in England.
- (4) Appointment is to be on terms and conditions (including as to remuneration and expenses) specified in, or determined in accordance with, the appointment.
- (5) An interim manager has—
 - (a) any power specified in the appointment, and
 - (b) any other power in relation to the registered social landlord's affairs required by the manager for the purposes specified in the appointment (including the power to enter into agreements and take other action on behalf of the landlord).
- (6) But an interim manager may not—
 - (a) dispose of land, or
 - (b) grant security over land.
- (7) The Welsh Ministers may give the interim manager general or specific directions.
- (8) The Welsh Ministers may revoke or amend any directions given.
- (9) An appointment under this section comes to an end with the earliest of the following—
 - (a) the end of the moratorium,
 - (b) the agreement of proposals made under section 44, or
 - (c) a date specified in the appointment.
- (10) If a person ceases to be an interim manager before the appointment has come to an end, the Welsh Ministers may appoint a new interim manager in place of that person.]

Textual Amendments

F13 S. 43A inserted (18.10.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\)](#), **ss. 83, 90(2)**; [S.I. 2011/2475](#), **arts. 1(2), 2(s)**

44 Proposals as to ownership and management of landlord's land.

- (1) During the moratorium (see sections 42 and 43) [^{F1}the Welsh Ministers] may make proposals as to the future ownership and management of the land held by the registered social landlord, designed to secure the continued proper management of the landlord's land by a registered social landlord.
- (2) In drawing up its proposals [^{F1}the Welsh Ministers]—
 - (a) shall consult the landlord and, so far as is practicable, its tenants, and
 - (b) shall have regard to the interests of all the landlord's creditors, both secured and unsecured.
- (3) The [^{F14}Relevant Authority] shall also consult—
 - (a) where the landlord is [^{F5}a registered society], the appropriate registrar, and
 - (b) where the landlord is a registered charity, the [^{F15}Charity Commission] .
- (4) No proposals shall be made under which—

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- (a) a preferential debt of the landlord is to be paid otherwise than in priority to debts which are not preferential debts,^{F16}...
- [^{F17}(aa) an ordinary preferential debt of the landlord is to be paid otherwise than in priority to any secondary preferential debts that the landlord may have,]
- (b) a preferential creditor is to be paid a smaller proportion of [^{F18}an ordinary preferential debt] than another preferential creditor, except with the concurrence of the creditor concerned^{F19}[^{F20} ...
- (c) a preferential creditor is to be paid a smaller proportion of a secondary preferential debt than another preferential creditor, except with the concurrence of the creditor concerned.][^{F21}or
- (d) if the landlord is a relevant financial institution—
 - (i) an ordinary non-preferential debt of the landlord is to be paid otherwise than in priority to any secondary non-preferential debts of the landlord,
 - (ii) a secondary non-preferential debt of the landlord is to be paid otherwise than in priority to any tertiary non-preferential debts of the landlord, or
 - (iii) a secondary non-preferential creditor is to be paid a smaller proportion of a secondary non-preferential debt of the landlord than another secondary non-preferential creditor, except with the concurrence of the creditor concerned.]

In this subsection references to preferential debts [^{F22}, ordinary preferential debts, secondary preferential debts][^{F23}, ordinary non-preferential debts, secondary non-preferential debts, tertiary non-preferential debts, relevant financial institution] and preferential creditors have the same meaning as in the^{M1}Insolvency Act 1986.

- (5) So far as practicable no proposals shall be made which have the effect that unsecured creditors of the landlord are in a worse position than they would otherwise be.
- (6) Where the landlord is a charity the proposals shall not require the landlord to act outside the terms of its trusts, and any disposal of housing accommodation occupied under a tenancy or licence from the landlord must be to another charity whose objects appear to [^{F1}the Welsh Ministers] to be, as nearly as practicable, akin to those of the landlord.
- (7) The [^{F14}Relevant Authority] shall serve a copy of its proposals on—
 - (a) the landlord and its officers,
 - (b) the secured creditors of the landlord, and
 - (c) any liquidator, administrator, administrative receiver or receiver appointed in respect of the landlord or its land;

and it shall make such arrangements as it considers appropriate to see that the members, tenants and unsecured creditors of the landlord are informed of the proposals.

Textual Amendments

- F1** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2](#) (with [Sch.](#))
- F5** Words in Act substituted (1.8.2014) by Co-operative and [Community Benefit Societies Act 2014 \(c. 14\), s. 154, Sch. 4 para. 56](#) (with [Sch. 5](#))

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- F14** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F15** Words in s. 44(3) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 187**; S.I. 2007/309, **art. 2, Sch.**
- F16** Word in s. 44(4)(a) omitted (1.1.2015) by virtue of The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **29(2)(a)** (with art. 3)
- F17** S. 44(4)(aa) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **29(2)(b)** (with art. 3)
- F18** Words in s. 44(4)(b) substituted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **29(2)(c)** (with art. 3)
- F19** Word in s. 44(4)(b) omitted (19.12.2018) by virtue of The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), **39(2)** (with art. 3)
- F20** S. 44(4)(c) and word inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **29(2)(d)** (with art. 3)
- F21** S. 44(4)(d) and word inserted (19.12.2018) by The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), **39(3)** (with art. 3)
- F22** Words in s. 44(4) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **29(2)(e)** (with art. 3)
- F23** Words in s. 44(4) inserted (19.12.2018) by The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), **39(4)** (with art. 3)

Marginal Citations

M1 1986 c. 45.

45 Effect of agreed proposals.

- (1) The following provisions apply if proposals made by [^{F1}the Welsh Ministers] under section 44 are agreed, with or without modifications, by all the secured creditors of the registered social landlord.
- (2) Once agreed the proposals are binding on [^{F1}the Welsh Ministers], the landlord, all the landlord's creditors (whether secured or unsecured) and any liquidator, administrator, administrative receiver or receiver appointed in respect of the landlord or its land.
- (3) It is the duty of—
 - (a) the members of the committee where the landlord is [^{F5}a registered society],
 - (b) the directors where the landlord is [^{F24}a company (including a company that is a registered charity)] , and
 - (c) the trustees where the landlord is a charitable trust,
 to co-operate in the implementation of the proposals.

This does not mean that they have to do anything contrary to any fiduciary or other duty owed by them.

- (4) The [^{F25}Relevant Authority] shall serve a copy of the agreed proposals on—
 - (a) the landlord and its officers,
 - (b) the secured creditors of the landlord, and
 - (c) any liquidator, administrator, administrative receiver or receiver appointed in respect of the landlord or its land, and
 - (d) where the landlord is [^{F5}a registered society] or registered charity, the [^{F26}Financial Conduct Authority] or the [^{F27}Charity Commission] , as the case may be;

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and it shall make such arrangements as it considers appropriate to see that the members, tenants and unsecured creditors of the landlord are informed of the proposals.

- (5) The proposals may subsequently be amended with the consent of the ^{F25}Relevant Authority] and all the landlord's secured creditors.

Section 44(2) to (7) and subsections (2) to (4) above apply in relation to the amended proposals as in relation to the original proposals.

Textual Amendments

- F1** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2](#) (with [Sch.](#))
- F5** Words in Act substituted (1.8.2014) by Co-operative and [Community Benefit Societies Act 2014 \(c. 14\), s. 154, Sch. 4 para. 56](#) (with [Sch. 5](#))
- F24** Words in s. 45(3)(b) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\), art. 1\(2\), Sch. 1 para. 161\(4\)](#) (with [art. 10](#))
- F25** Words in Pt. I substituted (1.11.1998) by [1998 c. 38, s. 140, Sch. 16 para. 82\(1\)\(2\)](#) (with [ss. 139\(2\), 141\(1\), 143\(2\)](#)); [S.I. 1998/2244, art. 5](#).
- F26** Words in s. 45(4)(d) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\), art. 1\(1\), Sch. 11 para. 5\(1\)\(2\)\(d\)](#) (with [Sch. 12](#))
- F27** Words in s. 45(4) substituted (27.2.2007) by [Charities Act 2006 \(c. 50\), s. 79\(2\), Sch. 8 para. 188; S.I. 2007/309, art. 2, Sch.](#)

46 Appointment of manager to implement agreed proposals.

- (1) Where proposals agreed as mentioned in section 45 so provide, ^{F1}the Welsh Ministers] may by order ^{F28}. . . appoint a manager to implement the proposals or such of them as are specified in the order.
- (2) If the landlord is a registered charity, ^{F1}the Welsh Ministers] shall give notice to the ^{F29}Charity Commission] of the appointment.
- (3) Where proposals make provision for the appointment of a manager, they shall also provide for the payment of his reasonable remuneration and expenses.
- (4) The ^{F30}Relevant Authority] may give the manager directions in relation to the carrying out of his functions.

^{F31}(4A) The Welsh Ministers may amend or revoke any directions given by them.]

- (5) The manager may apply to the High Court for directions in relation to any particular matter arising in connection with the carrying out of his functions.

A direction of the court supersedes any direction of ^{F1}the Welsh Ministers] in respect of the same matter.

- (6) If a vacancy occurs by death, resignation or otherwise in the office of manager, ^{F1}the Welsh Ministers] may by further order ^{F28}. . . fill the vacancy.

^{F32}(7) An order under this section—

- (a) if made by the Housing Corporation, shall be made under its seal, and

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- (b) [^{F33}An order made by] the [^{F34}Welsh Ministers] , [^{F35}under this section] shall be made in writing.]

Textual Amendments

- F1** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2 \(with Sch.\)](#)
- F28** Words in s. 46(1)(6) repealed (1.11.1998) by [1998 c. 38, ss. 140, 152, Sch. 16 para. 88\(2\), Sch. 18 Pt.VI \(with ss. 137\(1\), 139\(2\), 141\(1\), 143\(2\)\); S.I. 1998/2244, art.5.](#)
- F29** Words in s. 46(2) substituted (27.2.2007) by [Charities Act 2006 \(c. 50\), s. 79\(2\), Sch. 8 para. 189; S.I. 2007/309, art. 2, Sch.](#)
- F30** Words in Pt. I substituted (1.11.1998) by [1998 c. 38, s. 140, Sch. 16 para. 82\(1\)\(2\) \(with ss. 139\(2\), 141\(1\), 143\(2\)\); S.I. 1998/2244, art.5.](#)
- F31** S. 46(4A) inserted (18.10.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\), s. 90\(2\), Sch. para. 10; S.I. 2011/2475, arts. 1\(2\), 2\(v\)](#)
- F32** S. 46(7) inserted (1.11.1998) by [1998 c. 38, s. 140, Sch. 16 para. 88\(3\) \(with ss. 139\(2\), 141\(1\), 143\(2\)\); S.I. 1998/2244, art.5.](#)
- F33** Words in s. 46(7)(b) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\), art. 1\(2\), Sch. 2 para. 91\(a\) \(with art. 6, Sch. 3\)](#)
- F34** Words in s. 46(7)(b) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 62\(a\), 325\(1\); S.I. 2010/862, art. 2 \(with Sch.\)](#)
- F35** Words in s. 46(7)(b) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\), art. 1\(2\), Sch. 2 para. 91\(b\) \(with art. 6, Sch. 3\)](#)

Modifications etc. (not altering text)

- C1** S. 46(7) modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\), arts. 1\(1\), 3, Sch. para. 5 \(with art. 6\)](#)

47 Powers of the manager.

- (1) An order under section 46(1) shall confer on the manager power generally to do all such things as are necessary for carrying out his functions.
- (2) The order may include the following specific powers—
 - (1) Power to take possession of the land held by the landlord and for that purpose to take any legal proceedings which seem to him expedient.
 - (2) Power to sell or otherwise dispose of the land by public auction or private contract.
 - (3) Power to raise or borrow money and for that purpose to grant security over the land.
 - (4) Power to appoint a solicitor or accountant or other professionally qualified person to assist him in the performance of his functions.
 - (5) Power to bring or defend legal proceedings relating to the land in the name and on behalf of the landlord.
 - (6) Power to refer to arbitration any question affecting the land.
 - (7) Power to effect and maintain insurance in respect of the land.
 - (8) Power where the landlord is a body corporate to use the seal of the body corporate for purposes relating to the land.

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- (9) Power to do all acts and to execute in the name and on behalf of the landlord any deed, receipt or other document relating to the land.
- (10) Power to appoint an agent to do anything which he is unable to do for himself or which can more conveniently be done by an agent, and power to employ and dismiss any employees.
- (11) Power to do all such things (including the carrying out of works) as may be necessary in connection with the management or transfer of the land.
- (12) Power to make any payment which is necessary or incidental to the performance of his functions.
- (13) Power to carry on the business of the landlord so far as relating to the management or transfer of the land.
- (14) Power to grant or accept a surrender of a lease or tenancy of any of the land, and to take a lease or tenancy of any property required or convenient for the landlord's housing activities.
- (15) Power to make any arrangement or compromise on behalf of the landlord in relation to the management or transfer of the land.
- (16) Power to do all other things incidental to the exercise of any of the above powers.
 - (3) In carrying out his functions the manager acts as the landlord's agent and he is not personally liable on a contract which he enters into as manager.
 - (4) A person dealing with the manager in good faith and for value is not concerned to inquire whether the manager is acting within his powers.
 - (5) The manager shall, so far as practicable, consult the landlord's tenants about any exercise of his powers which is likely to affect them and inform them about any such exercise of his powers.

Modifications etc. (not altering text)

- C2** S. 47(2) applied (with modifications) (23.12.2011) by [The Legal Services Act 2007 \(Designation as a Licensing Authority\) \(No. 2\) Order 2011 \(S.I. 2011/2866\)](#), art. 1(2), **Sch. 2**

48 Powers of the manager: transfer of engagements.

- (1) An order under section 46(1) may, where the landlord is [^{F5}a registered society], give the manager power to make and execute on behalf of the society an instrument transferring the engagements of the society.
- (2) Any such instrument has the same effect as a transfer of engagements under [^{F36}section 110 or 112 of the Co-operative and Community Benefit Societies Act 2014] (transfer of engagements by special resolution to another society or a company).
 [^{F37}In particular, it does not prejudice any right of a creditor of the society.]
- (3) A copy of the instrument, signed by the manager, shall be sent to the [^{F38}[^{F39}Financial Conduct Authority]] and registered by it; and until that copy is so registered the instrument shall not take effect.

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- (4) It is the duty of the manager to send a copy for registration within 14 days from the day on which the instrument is executed; but this does not invalidate registration after that time.

Textual Amendments

- F5** Words in Act substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 56** (with Sch. 5)
- F36** Words in s. 48(2) substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 59(2)** (with Sch. 5)
- F37** Words in s. 48(2) substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 59(3)** (with Sch. 5)
- F38** Words in s. 48(3) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 355**
- F39** Words in s. 48(3) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), Sch. 11 para. 5(1)(2)(e) (with Sch. 12)

49 Assistance by ^{F1}the Welsh Ministers].

- (1) The ^{F40}Relevant Authority] may give such assistance as it thinks fit—
- (a) to the landlord, for the purpose of preserving the position pending the making of and agreement to proposals;
 - (b) to the landlord or a manager appointed under section 46, for the purpose of carrying out any agreed proposals.
- (2) The ^{F40}Relevant Authority] may, in particular—
- (a) lend staff;
 - (b) pay or secure payment of the manager’s reasonable remuneration and expenses;
 - (c) give such financial assistance as appears to ^{F1}the Welsh Ministers] to be appropriate.

^{F41}(3)

Textual Amendments

- F1** Words in Pt. I substituted (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 61(7), 325(1); S.I. 2010/862, art. 2** (with Sch.)
- F40** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5.**
- F41** S. 49(3) repealed (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), Sch. 2 para. 92, **Sch. 4** (with art. 6, Sch. 3)

Modifications etc. (not altering text)

- C3** S. 49(3) modified (1.12.2008) by The Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008 (S.I. 2008/2839), arts. 1(1), 3, **Sch. para. 5** (with art. 6)

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50 Application to court to secure compliance with agreed proposals.

- (1) The landlord or any creditor of the landlord may apply to the High Court on the ground that an action of the manager appointed under section 46 is not in accordance with the agreed proposals.

On such an application the court may confirm, reverse or modify any act or decision of the manager, give him directions or make such other order as it thinks fit.

- (2) The [^{F42}Relevant Authority] or any other person bound by agreed proposals may apply to the High Court on the ground that any action, or proposed action, by another person bound by the proposals is not in accordance with those proposals.

On such an application the court may—

- (a) declare any such action to be ineffective, and
- (b) grant such relief by way of injunction, damages or otherwise as appears to the court appropriate.

Textual Amendments

F42 Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

Status:

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