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# Housing and Regeneration Act 2008

## 2008 CHAPTER 17

### PART 2 **E+W**

#### REGULATION OF SOCIAL HOUSING

##### Modifications etc. (not altering text)

- C1** Pt. 2 modified (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 69\(2\)](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)

### CHAPTER 1 **E+W**

#### INTRODUCTION

##### *Preliminary*

#### **59 Purpose **E+W****

The purpose of this Part is to regulate the provision of social housing (as defined in sections 68 to 77) by English bodies (as defined in section 79).

##### Commencement Information

- II** S. 59 in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

#### **60 Structural overview **E+W****

- (1) This Part replaces the system of “registered social landlords” under Part 1 of the Housing Act 1996 (c. 52).
- (2) That Part will continue to apply in relation to Wales (see section 61).

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- (3) Certain provisions of that Part—
- (a) are applied in relation to England by this Part (see section 179), or
  - (b) are preserved although they apply to England only (see section 124).
- (4) The Table describes the content of this Part.

<i>Chapter</i>	<i>Sections</i>	<i>Topic</i>	<i>Contents</i>
1	59 to 80	Introduction	(a) Preliminary (b) Social housing (c) Other key concepts
[ <sup>F1</sup> 2	92A to 109	The Social Housing Regulator	(a) The regulator and the Regulation Committee (b) Fundamental objectives (c) Powers (d) Money (e) Information]
3	110 to 121	Registration	(a) Introduction (b) Eligibility (c) Procedure
4	122 to 169	Registered providers	(a) General provisions (b) Accounts (c) Insolvency etc. (d) Restructuring and dissolution
5	170 to 191	Disposal of property [ <sup>F2</sup> by private registered providers]	(a) Introductory (b) Regulator's consent (c) Proceeds (d) Tenants' rights and duties (e) Miscellaneous (f) Right to acquire (g) Consents under other legislation

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6	192 to 217	Regulatory powers	(a) Standards (b) Monitoring (c) Management and constitution (d) Guidance (e) Managers of social housing
7	218 to [F3269B]	Enforcement powers	(a) General (b) Enforcement notice (c) Penalty (d) Compensation (e) Management (f) Restrictions on dealings (g) Suspension and removal of officers [F4(h) Censure of local authority employees]
8	270 to 278	General	(a) Interpretation (b) Miscellaneous

#### Textual Amendments

- F1** Words in s. 60(4) Table substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 16 para. 12](#); [S.I. 2012/628, art. 6\(i\)](#) (with arts. 911141517)
- F2** Words in s. 60(4) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\), art. 1\(2\), Sch. 1 para. 1\(a\)](#)
- F3** Word in s. 60(4) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\), art. 1\(2\), Sch. 1 para. 1\(b\)](#)
- F4** Words in s. 60(4) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\), art. 1\(2\), Sch. 1 para. 1\(c\)](#)

#### Commencement Information

- I2** S. 60 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with Sch.)

## 61 Restriction of “registered social landlord” system to Wales **E+W**

- (1) Part 1 of the Housing Act 1996 (c. 52) (social rented sector) is amended as follows (and the title of Part 1 becomes “Social Rented Sector in Wales”).
- (2) Before section 1 (register of social landlords) insert—

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## “A1 Introduction

This Chapter provides for the registration of social landlords in Wales.”

(3) In section 1—

- (a) for “The Relevant Authority” substitute “ The Welsh Ministers ”, and
- (b) omit subsections (1A) and (1B).

(4) After section 1 insert—

### “1A Welsh bodies

In this Chapter “Welsh body” means a body which is—

- (a) a registered charity whose address, for the purposes of registration by the Charity Commission for England and Wales, is in Wales,
- (b) [<sup>F5</sup>a registered society] whose registered office for the purposes of the Industrial and Provident Societies Act 1965 is in Wales, or
- (c) a company within the meaning of the Companies Act 2006 which has its registered office for the purposes of that Act in Wales.”

(5) In section 2 (eligibility for registration)—

- (a) in subsection (1), for “A body” substitute “ A Welsh body ”,
- (b) in subsection (2) after “that the body is” insert “ principally concerned with Welsh housing, is ”,
- (c) after subsection (2) insert—

“(2A) A body is principally concerned with Welsh housing if the Welsh Ministers think—

- (a) that it owns housing only or mainly in Wales, or
- (b) that its activities are principally undertaken in respect of Wales;

and once a body has been registered in reliance on paragraph (a) or (b) it does not cease to be eligible for registration by virtue only of ceasing to satisfy that paragraph.”,

- (d) in subsection (7) for “Secretary of State” (in each place) substitute “ Welsh Ministers ”, and
- (e) in subsection (8) for “either House of Parliament” substitute “ the National Assembly for Wales ”.

(6) In section 3 (registration)—

- (a) in subsection (1) for “any body” substitute “ any Welsh body ”, and
- (b) in subsection (4) for “A body” substitute “ A Welsh body ”.

(7) The table sets out substitutions which have effect throughout the Part (except section 51 and Schedule 2); and where necessary in consequence of those substitutions, for words in the singular substitute appropriate corresponding words in the plural.

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### *Expression*

“the Relevant Authority”

### *Substitution*

“the Welsh Ministers”

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“the Authority”

“the Welsh Ministers”

“the Relevant Authority's”

“the Welsh Ministers”

(8) Omit section 56 (meaning of “the Relevant Authority”).

(9) Sections 62 and 63 make other consequential amendments.

#### 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. 122](#) (with [Sch. 5](#))

#### Commencement Information

**I3** S. 61 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 62 References to Welsh Ministers **E+W**

In the following provisions of the Housing Act 1996 (c. 52)—

- for “Secretary of State” substitute “ Welsh Ministers ”,
- for “Secretary of State makes” substitute “ Welsh Ministers make ”,
- for “he” substitute “ they ”,
- for “him” substitute “ them ” (except in section 12A(4)), and
- for “considers” substitute “ consider ”.

<i>Provision</i>	<i>Topic</i>
Section 9(1A)(b)	Consent for disposal of land
Section 12A(4)	Right of first refusal: regulations
Section 15A(5)	Deferred resale agreements: order
Section 17(1), (2)(b), (5)(b) and (6)	Right to acquire: orders and regulations
Section 18(5)(b)	Social housing grants: appointment of agent
Section 23(6)	Loans: approved schemes
Section 27A(3)	Grants to other bodies: further provision
Section 29(1), (2) and (3)	Commutation of special residual subsidy
Section 30(5)(b)	Collection of information: notice
Section 39(3)	Insolvency etc: order defining terms
Section 46(7)(b)	Appointment of manager: order
Section 52(1) and (3)	Orders: general
Section 53(1), (4) and (5)	Determinations: general
Section 55(2)	Consequential: order

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Paragraph 9(3A)(b) of Schedule 1	Change of rules of [ <sup>F6</sup> registered society]: consent
Paragraph 11(3A)(b) of Schedule 1	Change of articles of company: consent
Paragraph 15A(1) of Schedule 1	Transfer of assets of charity on dissolution: order

#### Textual Amendments

- F6** Words in Act substituted (1.8.2014 immediately after s. 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 comes into force) by Co-operative and [Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 123](#) (with [Sch. 5](#))

#### Commencement Information

- I4** S. 62 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 63 References to National Assembly for Wales E+W

In the following provisions of the Housing Act 1996 (c. 52) for “either House of Parliament” substitute “the National Assembly for Wales”.

<i>Provision</i>	<i>Topic</i>
Section 12A(8)(b)	Right of first refusal: regulations
Section 15A(6)(b)	Deferred resale agreements: order
Section 17(7)	Right to acquire: orders and regulations
Section 27A(10)	Grants to other bodies: order
Section 39(3)	Insolvency: order
Section 55(3)	Consequential: order
Paragraph 15A(4) of Schedule 1	Transfer of assets of charity on dissolution: order

#### Commencement Information

- I5** S. 63 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 64 Dissolution of Housing Corporation E+W

- (1) The Secretary of State shall by order make provision for the dissolution of the Housing Corporation.
- (2) The Secretary of State may by order make consequential amendment of enactments referring to the Housing Corporation.
- (3) Omit section 33A of the Housing Associations Act 1985 (c. 69) (provision of services between the Corporations).

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#### Commencement Information

- 16** S. 64(1)(2) in force at 16.2.2009 by [S.I. 2009/363](#), [art. 2](#)  
**17** S. 64(3) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 65 Transfer schemes **E+W**

- (1) The Secretary of State may make one or more schemes for the transfer of the Housing Corporation's property, rights or liabilities to—
- the regulator,
  - the HCA, or
  - the Secretary of State.
- (2) On the transfer date, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.
- (3) Schedule 6 applies to a scheme under this section.
- (4) In this section—
- “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;
- “the transfer date” means the date specified by a scheme as the date on which the scheme is to have effect.
- (5) Schedule 7 makes provision about the tax implications of schemes under this section (and schemes under section 51).

#### Commencement Information

- 18** S. 65 in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

### 66 Interim arrangements **E+W**

The Secretary of State may by notice require the Housing Corporation to provide staff, premises, facilities or other assistance to—

- the regulator, or
- the HCA.

#### Commencement Information

- 19** S. 66 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

### 67 Transitional arrangements **E+W**

- (1) The Secretary of State may by order transfer functions of the Housing Corporation to—
- the regulator,
  - the HCA, or

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- (c) the regulator and the HCA jointly or concurrently.
- (2) An order under subsection (1) may make provision in relation to English registered social landlords which is similar to any provision made by this Part in relation to registered providers.
- (3) “English registered social landlord” means a body—
- (a) which is registered as a social landlord under Part 1 of the Housing Act 1996, and
  - (b) which does not fall within paragraphs (a) to (c) of section 56(2) of that Act (Welsh bodies).
- (4) The Secretary of State may by order make further provision in respect of a function transferred under this section (which may, in particular, include provision for the function to cease to be exercisable).
- (5) Provision made under this section, including provision made by virtue of section 320(1)(d), may modify an enactment.
- (6) Provision under section 322(1) in connection with the coming into force of a provision of this Act may, in particular, include transitional provision having regard to the effect of provision made under this section.

#### Commencement Information

- I10** S. 67 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by [S.I. 2008/2358](#), [art. 3\(1\)](#)
- I11** S. 67 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### Social housing

#### 68 Basic principle **E+W**

- (1) In this Part “social housing” means—
- (a) low cost rental accommodation (defined by section 69), and
  - (b) low cost home ownership accommodation (defined by section 70).
- (2) Accommodation which becomes “social housing” by satisfying subsection (1)(a) or (b) remains “social housing” for the purposes of this Part unless and until an event specified in sections 73 to 76 occurs.
- (3) Section 77 makes transitional provision as a result of which certain accommodation is to be treated as “social housing” whether or not it satisfies subsection (1)(a) or (b).

#### Commencement Information

- I12** S. 68 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)
- I13** S. 68 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

#### 69 Low cost rental **E+W**

Accommodation is low cost rental accommodation if—



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- (a) it is made available for rent,
- (b) the rent is below the market rate, and
- (c) the accommodation is made available in accordance with rules designed to ensure that it is made available to people whose needs are not adequately served by the commercial housing market.

#### Commencement Information

**I14** S. 69 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)

**I15** S. 69 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 70 Low cost home ownership **E+W**

- (1) Accommodation is low cost home ownership accommodation if the following conditions are satisfied.
- (2) Condition 1 is that the accommodation is occupied, or made available for occupation, in accordance with—
  - (a) shared ownership arrangements,
  - (b) equity percentage arrangements, or
  - (c) shared ownership trusts.
- (3) Condition 2 is that the accommodation is made available in accordance with rules designed to ensure that it is made available to people whose needs are not adequately served by the commercial housing market.
- (4) “Shared ownership arrangements” means arrangements under a lease which—
  - (a) is granted on payment of a premium calculated by reference to a percentage of either the value of the accommodation or the cost of providing it, and
  - (b) provides that the tenant (or the tenant's personal representatives) will or may be entitled to a sum calculated by reference to the value of the accommodation.
- (5) “Equity percentage arrangements” means arrangements under which—
  - (a) the owner of a freehold or leasehold interest in residential property (“the seller”) conveys it to an individual (“the buyer”),
  - (b) the buyer, in consideration for the conveyance—
    - (i) pays the seller a sum (the “initial payment”) expressed to represent a percentage of the value of the interest at the time of the conveyance, and
    - (ii) agrees to pay the seller other sums calculated by reference to a percentage of the value of the interest at the time when each sum is to be paid, and
  - (c) the liability to make any payment required by the arrangements (apart from the initial payment) is secured by a mortgage.
- (6) Shared ownership trusts has the same meaning as in Schedule 9 to the Finance Act 2003 (c. 14) (stamp duty land tax).
- (7) The Secretary of State may make regulations amending—
  - (a) the definition of “low cost home ownership accommodation”;
  - (b) the definition of any of the sub-categories specified in that definition.

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#### Commencement Information

- I16** S. 70 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)  
**I17** S. 70 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 71 Shared ownership low cost rental **E+W**

Accommodation which is both low cost rental accommodation and low cost home ownership accommodation is to be treated as the latter and not as the former.

#### Commencement Information

- I18** S. 71 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)  
**I19** S. 71 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 72 Regulations **E+W**

- (1) The Secretary of State may make regulations providing that specified property, or a specified class of property, is or is not to be treated as social housing for the purposes of this Part.
- (2) The regulations may provide for property to be social housing despite not satisfying section 68(1)(a) or (b) where the Secretary of State thinks the property is of a kind, or is provided in circumstances, that serve the needs of a group whose needs are not adequately served by the commercial housing market.
- (3) The regulations—
  - (a) may override section 68(2),
  - (b) are subject to sections 68(3) and 77, and
  - (c) are subject to sections 69 and 70 (but may clarify doubt about the application of those sections).
- (4) The regulations—
  - (a) may make provision by reference to the opinion of the regulator or another specified person, and
  - (b) may make provision by reference to designation, agreement or other action by the regulator or another specified person.

#### Commencement Information

- I20** S. 72 in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

### 73 Leaving the social housing stock: sale **E+W**

- (1) A dwelling ceases to be social housing if it is sold to the tenant.
- (2) Low cost rental accommodation is “sold to the tenant” when the tenant exercises a statutory or contractual right and as a result becomes the owner of—
  - (a) the freehold interest in the property, or

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- (b) the leasehold interest previously owned by the person providing the social housing.
- (3) Low cost home ownership accommodation of the shared ownership kind is “sold to the tenant” when the tenant exercises a statutory or contractual right and as a result becomes the owner of—
  - (a) the freehold interest in the property, or
  - (b) the leasehold interest previously owned by the person providing the social housing.
- (4) Low cost home ownership accommodation of the equity percentage kind is “sold to the tenant” when the “buyer” (see section 70(5)(a)) exercises a statutory or contractual right as a result of which the equity percentage arrangements (see section 70(5)) come to an end.
- (5) Low cost home ownership accommodation of the shared ownership trust kind comes to an end when the “purchaser” (see paragraph 7(4)(a) of Schedule 9 to the Finance Act 2003 (c. 14)) exercises a statutory or contractual right as a result of which the trust comes to an end.

#### Commencement Information

**I21** S. 73 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)

**I22** S. 73 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

#### 74 Leaving the social housing stock: expired lease **E+W**

- (1) A dwelling ceases to be social housing if—
  - (a) the provider holds a leasehold interest in the dwelling, and
  - (b) the leasehold interest expires.
- (2) A lease from an associate or subsidiary of the provider is disregarded for the purposes of subsection (1).

#### Commencement Information

**I23** S. 74 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)

**I24** S. 74 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

#### 75 Leaving the social housing stock: disposal with consent **E+W**

- (1) A dwelling ceases to be social housing if it is disposed of with the regulator's consent in accordance with—
  - (a) Chapter 5,
  - (b) section 171D of the Housing Act 1985 (c. 68) (consent to certain disposals of housing obtained subject to the preserved right to buy), or
  - (c) section 81 or 133 of the Housing Act 1988 (c. 50) (consent to certain disposals of housing obtained from housing action trusts or local authorities).

[<sup>F7</sup>(1A) A dwelling ceases to be social housing if it is—

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- (a) disposed of with the Secretary of State's consent in accordance with section 32 or 43 of the Housing Act 1985 (disposals by local authorities),
  - (b) appropriated with the Secretary of State's consent in accordance with section 19(2) of that Act (appropriation by local authorities for some other purpose), or
  - (c) disposed of by a local authority with the Secretary of State's consent in accordance with any other enactment.]
- (2) [<sup>F8</sup>Subsections (1) and (1A) do] not apply to a disposal in pursuance of shared ownership arrangements or equity percentage arrangements.
  - (3) [<sup>F9</sup>Subsections (1) and (1A) do] not apply if the consent is conditional upon the dwelling continuing to be low cost rental accommodation or low cost home ownership accommodation.
  - (4) A condition of that kind shall include provision for determining when the dwelling ceases to be social housing.

#### Textual Amendments

- F7** S. 75(1A) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 2\(2\)](#)
- F8** Words in s. 75(2) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 2\(3\)](#)
- F9** Words in s. 75(3) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 2\(3\)](#)

#### Commencement Information

- I25** S. 75 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)
- I26** S. 75 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 76 Leaving the social housing stock: regulator's direction E+W

- (1) The regulator may direct that a specified dwelling is to cease to be social housing.
- (2) The regulator may make a direction only on the application of the provider.
- [<sup>F10</sup>(3) A direction may not be made if the provider is a local authority.]

#### Textual Amendments

- F10** S. 76(3) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 3](#)

#### Commencement Information

- I27** S. 76 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)
- I28** S. 76 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

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## 77 **Housing stock under Housing Act 1996** **E+W**

- (1) This section applies to property owned by a registered social landlord within the meaning of Part 1 of the Housing Act 1996 (c. 52) before the coming into force of section 61 of this Act.
- (2) Property to which this section applies is social housing—
  - (a) whether or not it satisfies section 68(1)(a) or (b), and
  - (b) unless and until an event specified in sections 73 to 76 occurs.
- (3) But property to which any of the exceptions below applies when section 61 comes into force is social housing only if the purchase, construction or renovation of the property was funded by means of a grant under—
  - (a) section 19 (financial assistance by the HCA),
  - (b) section 18 of the Housing Act 1996 (social housing grant), or
  - (c) section 50 of the Housing Act 1988, section 41 of the Housing Associations Act 1985 (c. 69) or section 29 or 29A of the Housing Act 1974 (c. 44) (housing association grant).
- (4) Exception 1 is accommodation let on the open market.
- (5) Exception 2 is accommodation made available only to students in full-time education or training.
- (6) Exception 3 is a care home (within the meaning of the Care Standards Act 2000 (c. 14)) in which nursing is provided.
- (7) Exception 4 is accommodation provided in response to a request by the Secretary of State under section 100 of the Immigration and Asylum Act 1999 (c. 33) (support for asylum seekers).
- (8) Exception 5 is property of a kind specified by regulations made by the Secretary of State.

### Commencement Information

**I29** S. 77 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)

**I30** S. 77 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### *Other key concepts*

## <sup>F11</sup>78 **Regulator of Social Housing** **E+W**

### Textual Amendments

**F11** S. 78 repealed (1.4.2012) by [Localism Act 2011](#) (c. 20), s. 240(2), [Sch. 16](#) para. 13, [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), [art. 6\(i\)\(j\)](#) (with [arts. 911141517](#))

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 79 English bodies **E+W**

- (1) In this Part “English body” means—
- (a) a registered charity whose address for the purposes of registration by the Charity Commission is in England,
  - (b) [<sup>F5</sup>a registered society] whose registered office for the purposes of [<sup>F12</sup>the Co-operative and Community Benefit Societies Act 2014] is in England,
  - (c) a registered company which has its registered office in England,
  - (d) a community land trust which owns land in England, and
  - (e) any other person (whether or not a body corporate registered under the law of the United Kingdom) which—
    - (i) is not a Welsh body within the meaning of section 1A of the Housing Act 1996 (c. 52) [<sup>F13</sup>or a local authority in Wales], and
    - (ii) makes available, or intends to make available, accommodation in England.
- (2) In subsection (1)(d) “community land trust” means a body corporate which satisfies the conditions below.
- (3) In those conditions “local community” means the individuals who live or work, or want to live or work, in a specified area.
- (4) Condition 1 is that the body is established for the express purpose of furthering the social, economic and environmental interests of a local community by acquiring and managing land and other assets in order—
- (a) to provide a benefit to the local community, and
  - (b) to ensure that the assets are not sold or developed except in a manner which the trust's members think benefits the local community.
- (5) Condition 2 is that the body is established under arrangements which are expressly designed to ensure that—
- (a) any profits from its activities will be used to benefit the local community (otherwise than by being paid directly to members),
  - (b) individuals who live or work in the specified area have the opportunity to become members of the trust (whether or not others can also become members), and
  - (c) the members of the trust control it.

### 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. 122](#) (with [Sch. 5](#))
- F12** Words in s. 79(1)(b) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 124](#) (with [Sch. 5](#))
- F13** Words in s. 79(1)(e)(i) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 4](#)

### Commencement Information

- I31** S. 79 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)
- I32** S. 79 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

*Status: Point in time view as at 01/04/2015.*

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## 80 Provider of social housing **E+W**

(1) In this Chapter a reference to the provider of social housing is to be construed as follows.

<i>Type of social housing</i>	<i>Provider</i>
Low cost rental accommodation	The landlord
Low cost home ownership accommodation: shared ownership	The landlord
Low cost home ownership accommodation: equity percentage	“The seller” within the meaning of section 70(5)(a)
Low cost home ownership accommodation: shared ownership trust	The “social landlord” within the meaning of paragraph 7(3) of Schedule 9 to the Finance Act 2003

(2) Chapter 3 provides for the establishment of a register of providers of social housing: persons listed in the register—

- (a) may be referred to in an enactment or other instrument as “registered providers of social housing”, and
- (b) are referred to in this Part as “registered providers”.

[<sup>F14</sup>(3) Persons listed in the register who are not local authorities—

- (a) may be referred to in an enactment or other instrument as “private registered providers of social housing”, and
- (b) are referred to in this Part as “private registered providers”.]

### Textual Amendments

**F14** S. 80(3) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 5**

### Commencement Information

**I33** S. 80 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), **art. 3(1)**

**I34** S. 80 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

## CHAPTER 2 **E+W**

### THE SOCIAL HOUSING REGULATOR

#### *Constitution*

## <sup>F15</sup>81 Establishment **E+W**

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*Status: Point in time view as at 01/04/2015.*

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**Textual Amendments**

**F15** S. 81 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 14, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

**F16** **82** **Membership** **E+W**

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**Textual Amendments**

**F16** S. 82 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 15, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

**F17** **83** **Tenure** **E+W**

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**Textual Amendments**

**F17** S. 83 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 16, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

**F18** **84** **Chief executive** **E+W**

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**Textual Amendments**

**F18** S. 84 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 17, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

**F19** **85** **Other staff** **E+W**

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**Textual Amendments**

**F19** S. 85 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 18, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

*Proceedings*

**F20** **86** **Fundamental objectives** **E+W**

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**Textual Amendments**

**F20** S. 86 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 19, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

**F21** **87** **Procedure** **E+W**

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**Textual Amendments**

**F21** S. 87 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 20, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

**F22** **88** **Conflict of interest** **E+W**

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**Textual Amendments**

**F22** S. 88 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 21, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

**F23** **89** **Committees** **E+W**

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**Textual Amendments**

**F23** S. 89 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 22, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

**F24** **90** **Delegation** **E+W**

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**Textual Amendments**

**F24** S. 90 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 23, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

**F25** **91** **Seal** **E+W**

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*Status: Point in time view as at 01/04/2015.*

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#### Textual Amendments

**F25** S. 91 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 24, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

### <sup>F26</sup>92 Annual report **E+W**

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#### Textual Amendments

**F26** S. 92 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 25, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

### <sup>F27</sup>The regulator and the Regulation Committee

#### Textual Amendments

**F27** Ss. 92A-92K and cross-heading inserted (15.1.2012 for the insertion of ss. 92B(1), 92C, 92D, 92E, 92F, 92G, 92H, 92I, 1.4.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 16 para. 26** (with Sch. 16 para. 69); S.I. 2012/57, art. 4(1)(t)(ii) (with arts. 679-11); S.I. 2012/628, art. 6(i) (with arts. 911141517)

### 92A Regulation functions of the HCA **E+W**

- (1) In this Part “ the regulator ” means the HCA.
- (2) In any other enactment or instrument “ the Regulator of Social Housing ” means the HCA.

### 92B The Regulation Committee **E+W**

- (1) The HCA must establish a committee to be known as the Regulation Committee.
- (2) The functions conferred on the HCA as the regulator by virtue of this Part, or as the Regulator of Social Housing by virtue of any other enactment or instrument, are exercisable by the HCA acting through the Regulation Committee.
- (3) Those functions are not exercisable by the HCA in any other way.
- (4) Subsections (2) and (3) are subject to any express provision to the contrary in this Part or in the enactment or instrument in question.
- (5) References in this Part to the functions of the regulator are to the functions mentioned in subsection (2).
- (6) References in any enactment or instrument to the social housing functions of the HCA or the Regulator of Social Housing are to the functions mentioned in subsection (2).

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*Status: Point in time view as at 01/04/2015.*

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## **92C Membership of the Regulation Committee** **E+W**

- (1) The Regulation Committee is to consist of—
  - (a) a person appointed by the Secretary of State to chair the Committee (“the chair”), and
  - (b) not less than four and not more than six other members appointed by the Secretary of State.
- (2) The chair of the Committee must not be a member of the HCA immediately prior to the chair's appointment as such, but becomes a member of the HCA on appointment.
- (3) One other member of the Committee may be a member of the HCA.
- (4) The member within subsection (3) is referred to in this Part as the internal member.
- (5) The remaining members of the Committee must be neither a member nor a member of staff of the HCA.
- (6) A member within subsection (5) is referred to in this Part as an external member.
- (7) The Secretary of State must consult the chair before appointing the other members.
- (8) In appointing a person to be a member, the Secretary of State must have regard to the desirability of appointing a person who has experience of, and has shown some capacity in, a matter relevant to the exercise of the functions of the regulator.
- (9) In appointing a person to be a member, the Secretary of State must be satisfied that the person will have no financial or other interest likely to affect prejudicially the exercise of the person's functions as a member.
- (10) The Secretary of State may require any person whom the Secretary of State proposes to appoint as a member to provide such information as the Secretary of State considers necessary for the purposes of subsection (9).

## **92D Terms of appointment of members** **E+W**

- (1) A member of the Regulation Committee holds office in accordance with the member's terms of appointment.
- (2) A member may resign by serving notice on the Secretary of State.
- (3) A person ceases to be the chair if the person—
  - (a) resigns that office by serving notice on the Secretary of State, or
  - (b) ceases to be a member of the Committee.
- (4) If a person ceases to be the chair, the person—
  - (a) ceases to be a member of the Committee, and
  - (b) ceases to be a member of the HCA.
- (5) A person ceases to be the internal member if the person ceases to be a member of the HCA.
- (6) A person who ceases to be a member or the chair is eligible for reappointment (subject to section 92C).
- (7) The Secretary of State may remove a member who—

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- (a) has been absent from meetings of the Committee without its permission for more than six months,
- (b) has become bankrupt or has made an arrangement with the member's creditors,
- (c) the Secretary of State thinks has failed to comply with the member's terms of appointment, or
- (d) the Secretary of State thinks is otherwise unable, unfit or unsuitable to exercise the functions of that member.

#### **92E Remuneration etc of members** E+W

- (1) The Secretary of State may require the HCA to pay to the chair such additional remuneration and allowances as the Secretary of State may decide.
- (2) The Secretary of State may require the HCA to pay to the external members of the Regulation Committee such remuneration and allowances as the Secretary of State may decide.
- (3) The Secretary of State may require the HCA to—
  - (a) pay such pensions, allowances or gratuities as the Secretary of State may decide to or in respect of any external member or former external member;
  - (b) pay such sums as the Secretary of State may decide towards provision for the payment of pensions, allowances or gratuities to or in respect of any external member or former external member.
- (4) Subsection (5) applies if—
  - (a) a person ceases to be an external member, and
  - (b) the Secretary of State considers that there are special circumstances that make it appropriate for the person to receive compensation.
- (5) The Secretary of State may require the HCA to pay the person such amount as the Secretary of State may decide.

#### **92F Sub-committees of the Regulation Committee** E+W

- (1) The Regulation Committee may establish one or more sub-committees.
- (2) A sub-committee may include persons who are not members of the Committee.
- (3) The Secretary of State may require the HCA to pay such remuneration and allowances as the Secretary of State may decide to any person who—
  - (a) is a member of a sub-committee, but
  - (b) is not a member of the Committee.
- (4) The HCA may dissolve a sub-committee.

#### **92G Procedure of the Committee and its sub-committees** E+W

- (1) The Regulation Committee may decide—
  - (a) its own procedure, and
  - (b) the procedure of any of its sub-committees.
- (2) Subject to subsection (1), a sub-committee may decide its own procedure.

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- (3) The validity of proceedings of the Committee or of any of its sub-committees is not affected by—
  - (a) any vacancy in its membership,
  - (b) any defect in the appointment of a member, or
  - (c) any contravention of section 92H (members' interests).
- (4) In this section “ procedure ” includes quorum.

#### **92H Members' interests** E+W

- (1) A member of the Regulation Committee who is directly or indirectly interested in any matter arising at a meeting of the Committee must disclose the nature of that interest to the meeting.
- (2) A member of a sub-committee of the Committee who is directly or indirectly interested in any matter arising at a meeting of the sub-committee must disclose the nature of that interest to the meeting.
- (3) In a case within subsection (1) or (2)—
  - (a) the member must not take part in any deliberation or decision about the matter if it is a contract or agreement of any description, but
  - (b) may otherwise take part in any deliberation or decision about the matter unless at least one-third of the other members at the meeting decide that the interests disclosed might prejudicially affect the member's consideration of the matter.

#### **92I Exercise of functions** E+W

- (1) The Regulation Committee may delegate any of the functions of the regulator to—
  - (a) any of its members,
  - (b) any of its sub-committees, or
  - (c) any member of staff of the HCA.
- (2) A sub-committee of the Committee may delegate any function conferred on it to any member of staff of the HCA.
- (3) A power of the HCA that is a function of the regulator—
  - (a) may be exercised separately or together with, or as part of, another such power;
  - (b) does not limit the scope of another such power.

#### **92J Recommendations to HCA** E+W

- (1) The Regulation Committee may make recommendations to the HCA about the exercise of the HCA's functions.
- (2) The HCA must publish, in such manner as it thinks fit—
  - (a) a recommendation received from the Regulation Committee under this section, and
  - (b) the HCA's response to it.
- (3) In this section the reference to the HCA's functions does not include the functions of the regulator.]

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## <sup>F27</sup>Fundamental objectives

### 92K Fundamental objectives **E+W**

- (1) The regulator must perform its functions with a view to achieving (so far as is possible)
  - (a) the economic regulation objective, and
  - (b) the consumer regulation objective.
- (2) The economic regulation objective is—
  - (a) to ensure that registered providers of social housing are financially viable and properly managed, and perform their functions efficiently and economically,
  - (b) to support the provision of social housing sufficient to meet reasonable demands (including by encouraging and promoting private investment in social housing),
  - (c) to ensure that value for money is obtained from public investment in social housing,
  - (d) to ensure that an unreasonable burden is not imposed (directly or indirectly) on public funds, and
  - (e) to guard against the misuse of public funds.
- (3) The consumer regulation objective is—
  - (a) to support the provision of social housing that is well-managed and of appropriate quality,
  - (b) to ensure that actual or potential tenants of social housing have an appropriate degree of choice and protection,
  - (c) to ensure that tenants of social housing have the opportunity to be involved in its management and to hold their landlords to account, and
  - (d) to encourage registered providers of social housing to contribute to the environmental, social and economic well-being of the areas in which the housing is situated.
- (4) The objectives are referred to in this Part as the regulator's fundamental objectives.
- (5) The regulator must exercise its functions in a way that—
  - (a) minimises interference, and
  - (b) (so far as is possible) is proportionate, consistent, transparent and accountable.]

## Powers

### 93 General **E+W**

- (1) The regulator may do anything it thinks necessary or expedient for the purpose of or in connection with the performance of a function [<sup>F28</sup>of the regulator].
- (2) In particular, the regulator may do anything it thinks appropriate for advancing its fundamental objectives.

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#### Textual Amendments

**F28** Words in s. 93(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 27](#); [S.I. 2012/628](#), [art. 6\(i\)](#) (with [arts. 911141517](#))

#### Commencement Information

**I35** S. 93 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)

**I36** S. 93 in force at 1.4.2009 by [S.I. 2009/803](#), [art. 7\(a\)](#)

## 94 Studies **E+W**

- (1) The regulator may carry out or commission studies designed to improve the economy, effectiveness and efficiency of registered providers.
- (2) The regulator may publish a report on a study.
- [<sup>F29</sup>(3) Nothing in subsection (1) permits the regulator, in relation to local authorities, to carry out or commission studies about the performance of housing functions other than their functions as a provider of social housing.]

#### Textual Amendments

**F29** S. 94(3) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), [art. 1\(2\)](#), [Sch. 1 para. 6](#)

#### Commencement Information

**I37** S. 94 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 95 Financial assistance **E+W**

- (1) The regulator may, where it thinks it advances a fundamental objective, give financial assistance to a person in connection with—
  - (a) undertaking research,
  - (b) preparing guidance,
  - (c) developing and publicising best practice, or
  - (d) facilitating the management of social housing by tenants.
- (2) Financial assistance under subsection (1) may be given—
  - (a) by way of grant,
  - (b) by way of loan,
  - (c) by defraying expenditure on behalf of a person, or
  - (d) in any other way except purchasing loan or share capital of a body corporate or giving a guarantee or indemnity.
- (3) The regulator may, where it thinks it advances a fundamental objective, give financial assistance to [<sup>F30</sup>a private registered provider] by—
  - (a) lending money to or in respect of the registered provider, or
  - (b) giving a guarantee or indemnity in respect of the registered provider.

*Status: Point in time view as at 01/04/2015.*

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- (4) Financial assistance may be given under subsection (3) only with the consent of the Secretary of State (given with the approval of the Treasury).
- (5) Financial assistance under subsection (1) or (3) may be given on conditions (which may include provision for repayment, with or without interest).

#### Textual Amendments

**F30** Words in s. 95(3) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 7](#)

#### Commencement Information

- I38** S. 95(1)(2)(5) in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)
- I39** S. 95(1)(2)(5) in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))
- I40** S. 95(3)(4) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 96 Evidence **E+W**

In considering whether to exercise a power under this Part the regulator may have regard to information or opinions from any source including, in particular, from—

- (a) tenants,
- (b) bodies representing tenants,
- (c) local housing authorities, or
- (d) [<sup>F31</sup>the Commission for Local Administration in England or] an ombudsman appointed by virtue of section 124.

#### Textual Amendments

**F31** Words in s. 96(d) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 8](#)

#### Commencement Information

- I41** S. 96 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)
- I42** S. 96 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 97 Information, advice etc. **E+W**

- (1) The regulator may for the purpose of advancing its fundamental objectives—
- (a) publish ideas or information;
  - (b) undertake research in relation to social housing;
  - (c) provide guidance, advice, education or training.
- (2) The regulator may for that purpose—
- (a) arrange for another person to do anything within subsection (1)(a) to (c);
  - (b) act jointly with, cooperate with or assist another person doing anything within subsection (1)(a) to (c).
- (3) The persons to whom advice may be given under subsection (1) include—



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*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) unregistered housing associations (as defined by section 2B of the Housing Associations Act 1985 (c. 69)), and
- (b) persons who may be forming a housing association (within the meaning of section 1(1) of that Act).

**Commencement Information**

**I43** S. 97 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358, art. 3\(1\)](#)

**I44** S. 97 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862, art. 2](#) (with [Sch.](#))

**98 Tenant involvement** **E+W**

- (1) The regulator shall—
  - (a) promote awareness of the regulator's functions among tenants of social housing,
  - (b) where the regulator thinks it appropriate, consult them about the exercise of its functions (for example, by holding meetings), and
  - (c) where the regulator thinks it appropriate, involve them in the exercise of its functions (for example, by appointing them to committees or sub-committees).
- (2) The regulator shall from time to time publish a statement about how it proposes to comply with subsection (1).
- (3) Before publishing a statement the regulator must consult such persons as it thinks appropriate.

**Commencement Information**

**I45** S. 98 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358, art. 3\(1\)](#)

**I46** S. 98 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862, art. 2](#) (with [Sch.](#))

*Money*

**F3299 Remuneration** **E+W**

.....

**Textual Amendments**

**F32** S. 99 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 16 para. 28, Sch. 25 Pt. 26; S.I. 2012/628, art. 6\(i\)\(j\)](#) (with [arts. 911141517](#))

**100 Charging** **E+W**

[<sup>F33</sup>(1)] The regulator may charge for giving advice, conducting research or providing other services.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[<sup>F34</sup>(2) The functions of billing for and receiving the payment of charges under this section are exercisable by the HCA rather than by the HCA acting through its Regulation Committee.]

#### Textual Amendments

- F33** Words in s. 100 numbered as s. 100(1) (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 29\(a\)](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F34** S. 100(2) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 29\(b\)](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)

#### Commencement Information

- I47** S. 100 in force at 8.9.2008 by S.I. 2008/2358, [art. 3\(1\)](#)

### <sup>F35</sup>101 Assistance by Secretary of State **E+W**

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#### Textual Amendments

- F35** S. 101 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 30](#), [Sch. 25 Pt. 26](#) (with [Sch. 16 para. 68\(6\)](#)); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

### <sup>F36</sup>102 Borrowing **E+W**

.....

#### Textual Amendments

- F36** S. 102 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 31](#), [Sch. 25 Pt. 26](#) (with [Sch. 16 para. 68\(6\)](#)); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

### <sup>F37</sup>103 Accounts **E+W**

.....

#### Textual Amendments

- F37** S. 103 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 32](#), [Sch. 25 Pt. 26](#) (with [Sch. 16 para. 68\(6\)](#)); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

### <sup>F38</sup>104 Financial year **E+W**

.....

*Status: Point in time view as at 01/04/2015.*

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#### Textual Amendments

**F38** S. 104 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 33, [Sch. 25 Pt. 26](#) (with [Sch. 16 para. 68\(6\)](#)); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

### *Relationship with other bodies*

#### <sup>F39</sup> **105 Cooperation with the HCA** **E+W**

.....

#### Textual Amendments

**F39** S. 105 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 34, [Sch. 25 Pt. 26](#) (with [Sch. 16 para. 68\(6\)](#)); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

#### <sup>F40</sup> **106 Direction to the HCA** **E+W**

.....

#### Textual Amendments

**F40** S. 106 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 35, [Sch. 25 Pt. 26](#) (with [Sch. 16 para. 68\(6\)](#)); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

#### <sup>F41</sup> **106A Cooperation with the Audit Commission** **E+W**

.....

#### Textual Amendments

**F41** S. 106A omitted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 12 para. 90](#); S.I. 2015/841, [art. 3\(x\)](#)

### *Information*

#### **107 Collection** **E+W**

- (1) The regulator may for a purpose connected with its functions require a person to provide documents or information which it has reason to believe is or may be in the person's possession and which relates to—
  - (a) the financial or other affairs of a registered provider;
  - [<sup>F42</sup>(b) activities which are or may be carried out by—
    - (i) a person who is, or who has applied to become, a registered provider, or
    - (ii) a local authority in England which the regulator thinks may be, or may become, a provider of social housing.]

*Status: Point in time view as at 01/04/2015.*

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- (2) A requirement may be imposed on a person other than the body to which the document or information relates only if—
  - (a) the body has been required to provide the document or information but has failed to do so, or
  - (b) the regulator thinks that the body is unable to provide it.
- (3) A requirement may specify—
  - (a) the form and manner in which a document or information is to be provided (which may include the provision of a legible copy of information stored electronically);
  - (b) when and where it is to be provided.
- (4) The regulator may copy or record documents or information provided.
- (5) Failure to comply with a requirement without reasonable excuse is an offence.
- (6) Intentionally altering, suppressing or destroying a document or information to which a requirement relates is an offence.
- (7) If a person fails to comply with a requirement the High Court may, on an application by the regulator, make an order for the purpose of remedying the failure.

#### Textual Amendments

**F42** S. 107(1)(b) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 10**

#### Commencement Information

**I48** S. 107 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

## 108 Section 107: supplemental **E+W**

- (1) A requirement does not require a person to disclose anything which the person would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court.
- (2) A requirement does not require a banker to breach a duty of confidentiality owed to a person who is not—
  - (a) the registered provider to whose affairs or activities the documents or information relates,
  - (b) a subsidiary of the registered provider, or
  - (c) an associate of the registered provider.
- (3) A person guilty of an offence under section 107(5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A person guilty of an offence under section 107(6) is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to—
    - (i) imprisonment for a term not exceeding two years,
    - (ii) a fine, or
    - (iii) both.

*Status: Point in time view as at 01/04/2015.*

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- (5) Proceedings for an offence under section 107(5) or (6) may be brought only by or with the consent of—
  - (a) the regulator, or
  - (b) the Director of Public Prosecutions.
- (6) An order under section 107(7) may include provision about costs.

#### Commencement Information

**I49** S. 108 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 109 Disclosure **E+W**

- (1) A public authority may disclose information to the regulator if the authority thinks that the disclosure is necessary for a purpose connected with the regulator's functions.
- (2) The regulator may disclose information to a public authority if the regulator thinks that the disclosure is necessary—
  - (a) for a purpose connected with the regulator's functions, or
  - (b) for a purpose connected with the authority's functions.
- (3) The regulator may disclose information to a person acting on its behalf for a purpose connected with the regulator's functions.
- (4) A disclosure may be subject to restrictions on further disclosure.
- (5) The power to disclose information under this section is subject to any express restriction on disclosure imposed by another enactment (ignoring any restriction which allows disclosure if authorised by an enactment).
- (6) Disclosure in contravention of a restriction under subsection (4) is an offence.
- (7) A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) “Public authority” means a person having functions of a public nature (whether or not in the United Kingdom).

#### Commencement Information

**I50** S. 109 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## CHAPTER 3 **E+W**

### REGISTRATION

#### *Introduction*

### 110 Overview **E+W**

This Chapter provides for the establishment of a register of providers of social housing.

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#### Commencement Information

**I51** S. 110 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 111 The register **E+W**

- (1) The regulator shall maintain a register of providers of social housing.
- (2) The regulator shall make the register available for inspection by the public.

#### Commencement Information

**I52** S. 111 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### Eligibility

### 112 [<sup>F43</sup>Eligibility for voluntary registration] **E+W**

- (1) An English body is eligible for registration if—
  - (a) it satisfies the following conditions, and
  - (b) it does not fall within the exceptions in section 113.
- (2) Condition 1 is that the body—
  - (a) is a provider of social housing in England, or
  - (b) intends to become a provider of social housing in England.
- (3) Condition 2 is that the body satisfies any relevant criteria set by the regulator as to—
  - (a) its financial situation,
  - (b) its constitution, and
  - (c) other arrangements for its management.
- (4) Before setting criteria the regulator must consult—
  - <sup>F44</sup>(a) .....
  - <sup>F45</sup>(aa) the Greater London Authority,
  - (b) one or more bodies appearing to it to represent the interests of [<sup>F46</sup>private registered providers],
  - <sup>F47</sup>(ba) any body for the time being nominated under section 278A,  
and
  - (c) one or more [<sup>F48</sup>other] bodies appearing to it to represent the interests of tenants.

[<sup>F49</sup>(5) Section 114 deals with bodies falling within the exceptions in section 113.]

#### Textual Amendments

- F43** Heading of s. 112 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 11\(4\)](#)
- F44** S. 112(4)(a) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 36](#), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)

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- F45** S. 112(4)(aa) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 48**; S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F46** Words in s. 112(4)(b) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 11(2)**
- F47** S. 112(4)(ba) inserted (12.11.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 26(3)(a)**, 148(1)(c)
- F48** Word in s. 112(4)(c) inserted (12.11.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 26(3)(b)**, 148(1)(c)
- F49** S. 112(5) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 11(3)**

**Commencement Information**

- I53** S. 112(1)(2) in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)
- I54** S. 112(3)(4) in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)** (with art. 3(3)(4))
- I55** S. 112(3)(4) in force at 1.4.2010 in so far as not already in force by S.I. 2010/862, **art. 2** (with Sch.)

**113** [<sup>F50</sup>**Section 112: exceptions**] **E+W**

- (1) This section sets out the exceptions to section 112(1).
- (2) Exception 1 is a local housing authority.
- (3) Exception 2 is a county council.

<sup>F51</sup>(4) .....

<sup>F52</sup>(5) .....

<sup>F53</sup>(6) .....

**Textual Amendments**

- F50** S. 113 heading substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 12**
- F51** S. 113(4) omitted (1.4.2010) by virtue of The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), arts. 1(2), **4**
- F52** S. 113(5) omitted (1.4.2010) by virtue of The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), arts. 1(2), **4**
- F53** S. 113(6) omitted (1.4.2010) by virtue of The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), arts. 1(2), **4**

**Commencement Information**

- I56** S. 113(1)-(4) in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

**114** **Registration of local authorities** **E+W**

- (1) The Secretary of State may by order—
  - (a) repeal section 113, or
  - (b) amend it so as to permit the registration of specified classes of local authority.
- (2) The Secretary of State may by order require the regulator to register—
  - (a) a specified local authority, or

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- (b) a specified class of local authority.
- (3) Registration under subsection (2)—
  - (a) takes effect in accordance with any provision of the order about timing or other procedural or incidental matters,
  - (b) does not require an application for registration, and
  - (c) may apply to a local authority whether or not it is eligible for registration by virtue of subsection (1).
- (4) If the Secretary of State thinks it necessary or desirable in connection with the registration of local authorities, the Secretary of State may by order—
  - (a) provide for a provision of this Part or any other enactment not to apply in relation to registered local authorities;
  - (b) provide for a provision of this Part or any other enactment to apply with specified modifications in relation to registered local authorities;
  - (c) amend a provision of this Part or any other enactment.
- (5) In this section—
  - (a) “local authority” means an authority or person to whom section 113 applies or has applied, and
  - (b) “registered local authorities” means authorities or persons who are registered, registrable or to be registered as a result of an order under subsection (1) or (2) above.
- (6) Before making an order under this section the Secretary of State shall consult—
  - (a) any authority or person likely to be affected by it, and
  - (b) such other persons as the Secretary of State thinks fit.

#### Commencement Information

**I57** S. 114 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)

**I58** S. 114 in force at 7.9.2009 for E. in so far as not already in force by [S.I. 2009/2096](#), [art. 2\(1\)](#)

#### [<sup>F54</sup>114A Local authorities: duty to notify **E+W**

- (1) A local authority in England which is not subject to compulsory registration must notify the regulator as soon as it becomes subject to compulsory registration.
- (2) For these purposes, an authority is subject to compulsory registration if—
  - (a) it is a provider of social housing, or
  - (b) it intends to become a provider of social housing.]

#### Textual Amendments

**F54** S. 114A inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), [art. 1\(2\)](#), [Sch. 1 para. 13](#)

#### 115 Profit-making and non-profit organisations **E+W**

- (1) Each entry in the register shall designate the body registered as either—



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- (a) a non-profit organisation, or
  - (b) a profit-making organisation.
- (2) A body is a non-profit organisation if it is a registered or non-registrable charity.
- (3) A body is also a non-profit organisation if it satisfies the following conditions.
- (4) Condition 1 is that the body—
  - (a) does not trade for profit, or
  - (b) is prohibited by its constitution from issuing capital with interest or dividend at a rate exceeding that prescribed under section 1(1)(b) of the Housing Associations Act 1985 (c. 69).
- (5) Condition 2 is that a purpose of the body is the provision or management of housing.
- (6) Condition 3 is that any other purposes of the body are connected with or incidental to the provision of housing.
- (7) The Secretary of State may make regulations providing that a specified purpose is to be, or not to be, treated as connected with or incidental to the provision of housing.
- (8) A body which is not a non-profit organisation under subsection (2) or (3) is a profit-making organisation.
- (9) If the regulator thinks that what was a profit-making organisation has become a non-profit organisation, the regulator must change the registered designation accordingly.
- [<sup>F55</sup>(10) Subsection (1) does not apply to the entry of a local authority in the register (and, accordingly, references to “profit-making” and “non-profit” in connection with a registered provider do not refer to a local authority).]

#### Textual Amendments

**F55** S. 115(10) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 14**

#### Commencement Information

**I59** S. 115 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### Procedure

#### 116 [<sup>F56</sup>Entry in the register: voluntary registration] **E+W**

- (1) The regulator shall register anyone who—
  - (a) is eligible for registration [<sup>F57</sup>under section 112(1)], and
  - (b) applies to be registered.
- (2) The regulator may make provision about—
  - (a) the form of an application;
  - (b) the information to be contained in it or provided with it;
  - (c) the manner in which an application is to be submitted;
  - (d) the consequences of failure to comply with provision under paragraphs (a) to (c).

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- (3) This section is subject to section 117 (fees).
- (4) Once entered [<sup>F58</sup>in the register under this section] a body remains registered unless and until removed under section 118 or 119.
- (5) It shall be presumed for all purposes that a person entered in the register [<sup>F59</sup>under this section] is eligible for registration while the registration lasts (irrespective of whether and why the person is later removed from the register).
- [<sup>F60</sup>(6) This section deals with voluntary registration; for the registration of local housing authorities and county councils, see section 114.]

#### Textual Amendments

- F56** Heading of s. 116 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 15\(6\)](#)
- F57** Words in s. 116(1)(a) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 15\(2\)](#)
- F58** Words in s. 116(4) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 15\(3\)](#)
- F59** Words in s. 116(5) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 15\(4\)](#)
- F60** S. 116(6) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 15\(5\)](#)

#### Commencement Information

- I60** S. 116(1) s. 116(3)-(5) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))
- I61** S. 116(2) in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

## 117 Fees **E+W**

- [<sup>F61</sup>(1) The regulator may charge—
- (a) a fee for initial registration, and
  - (b) an annual fee for continued registration.
- (2) Except in the case of a local authority, the regulator may make initial or continued registration conditional upon payment of the fee.]
- (3) The regulator shall—
- (a) prescribe the amount of a fee, and
  - (b) make provision about the periods during which and in respect of which annual fees are payable.
- (4) The regulator may set different fees, and make different provision, for different cases or circumstances.
- (5) Fees must be set in accordance with principles which the regulator prepares and publishes and which are designed to ensure that so far as is reasonably practicable—
- (a) fee income matches expenditure on the performance of [<sup>F62</sup>the regulator's] functions,
  - (b) each fee is reasonable and proportionate to the costs to which it relates, and

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- (c) actual or potential registered providers can see the relationship between the amount of a fee and the costs to which it relates.
- (6) The principles—
  - (a) shall provide for section 95(3) to be disregarded for the purpose of subsection (5)(a), and
  - (b) may provide for specified expenditure or potential expenditure under section 95 or otherwise to be disregarded for the purpose of subsection (5)(a).
- (7) Principles do not have effect until approved by the Secretary of State.
- (8) In preparing (or revising) the principles the regulator shall consult persons appearing to the regulator to represent the interests of fee-payers.
- (9) The [<sup>F63</sup>HCA's] accounts shall show—
  - (a) fees received, and
  - (b) fees outstanding.
- [<sup>F64</sup>(10) The functions of billing for and receiving the payment of fees under this section are exercisable by the HCA rather than by the HCA acting through its Regulation Committee.]

#### Textual Amendments

- F61** S. 117(1)(2) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 16**
- F62** Words in s. 117(5)(a) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 16 para. 37(2)**; [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)
- F63** Word in s. 117(9) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 16 para. 37(3)**; [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)
- F64** S. 117(10) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 16 para. 37(4)**; [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)

#### Commencement Information

- I62** S. 117 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), **art. 3(1)**
- I63** S. 117 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), **art. 2** (with Sch.)

## 118 De-registration: compulsory **E+W**

- (1) The regulator may remove from the register a [<sup>F65</sup>private registered provider] which the regulator thinks—
  - (a) is no longer eligible for registration,
  - (b) has ceased to carry out activities, or
  - (c) has ceased to exist.
- (2) Before removing a body under subsection (1)(a) or (b) the regulator must—
  - (a) take all reasonable steps to give the body at least 14 days' notice, and
  - (b) consider any representations it makes in that period.
- (3) After removing a body under subsection (1)(a) or (b) the regulator must take all reasonable steps to notify the body.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- [<sup>F66</sup>(4) The regulator shall remove a local authority from the register if the regulator becomes aware that the authority—
- (a) is no longer a provider of social housing, or
  - (b) no longer intends to become a provider of social housing (in the case of an authority which intended to become one but did not in fact do so).]

#### Textual Amendments

- F65** Words in s. 118(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 17(2)**
- F66** S. 118(4) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 17(3)**

#### Commencement Information

- I64** S. 118 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### 119 De-registration: voluntary **E+W**

- (1) A [<sup>F67</sup>private registered provider] may ask the regulator to remove it from the register.
- (2) The regulator may comply with a request—
  - (a) on the grounds that the registered provider no longer is or intends to be a provider of social housing in England,
  - (b) on the grounds that the registered provider is subject to regulation by another authority whose control is likely to be sufficient, or
  - (c) on the grounds that the registered provider meets any relevant criteria for de-registration set by the regulator.
- (3) Before deciding whether or not to comply, the regulator must consult such local authorities in whose area the registered provider acts as it thinks appropriate.
- (4) The regulator shall not comply with a request by a non-profit registered provider if it thinks that removal is sought with a view to enabling the registered provider to distribute assets to members.
- (5) In deciding whether or not to comply, the regulator must (in particular) have regard to—
  - (a) any conditions imposed in connection with disposal consents given to the registered provider under Chapter 5, and
  - (b) any conditions imposed in connection with financial assistance given to the registered provider under any enactment.
- (6) Having decided whether or not to remove the registered provider the regulator must notify—
  - (a) the provider, and
  - (b) any authority consulted.
- (7) The regulator shall publish criteria set for the purposes of subsection (2)(c).

*Status: Point in time view as at 01/04/2015.*

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#### Textual Amendments

**F67** Words in s. 119(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 18**

#### Commencement Information

**I65** S. 119(1) s. 119(3)-(6) in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

**I66** S. 119(2)(7) in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), **art. 3(1)**

**I67** S. 119(2)(7) in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

### 120 Notice **E+W**

- (1) As soon as is reasonably practicable after registering or de-registering a body the regulator shall notify—
  - (a) in the case of a registered charity, the Charity Commission,
  - (b) in the case of [<sup>F5</sup>a registered society], the [<sup>F68</sup>Financial Conduct Authority],  
<sup>F69</sup>...
  - (c) in the case of a registered company (whether or not also a registered charity), the registrar of companies for England and Wales [<sup>F70</sup>], and
  - (d) in the case of a local authority, the Secretary of State.]
- (2) [<sup>F71</sup>Except in the case of a local authority,] a notice of registration shall specify whether the person registered is designated as a non-profit or profit-making organisation.
- (3) If the designation changes, the regulator shall notify any person notified of the registration.
- (4) A person to whom notice is given under this section must keep a record of it.

#### 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. 122** (with [Sch. 5](#))

**F68** Words in s. 120(1)(b) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 11 para. 8(2)(3)(a)** (with [Sch. 12](#))

**F69** Word in s. 120(1)(b) omitted (1.4.2010) by virtue of [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 19(2)(a)**

**F70** S. 120(1)(d) and word inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 19(2)(b)**

**F71** Words in s. 120(2) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 19(3)**

#### Commencement Information

**I68** S. 120 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

### 121 Appeal **E+W**

- (1) A body may appeal to the High Court against a decision of the regulator—
  - (a) to refuse to register it,
  - (b) to de-register it, or

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- (c) to refuse to de-register it.
- (2) The regulator shall not de-register a body while an appeal is pending.
- (3) The Secretary of State may by order provide for the First-tier Tribunal to have jurisdiction under this section instead of the High Court.

#### Commencement Information

**I69** S. 121 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## CHAPTER 4 **E+W**

### REGISTERED PROVIDERS

#### *General provisions*

#### **122** **Payments to members etc.** **E+W**

- (1) This section restricts the making of gifts, and the payment of dividends and bonuses, by a non-profit registered provider to—
  - (a) a member or former member of the registered provider,
  - (b) a member of the family of a member or former member,
  - (c) a company which has as a director a person within paragraph (a) or (b).
- (2) A gift may be made, and a dividend or bonus may be paid, only if it falls within one of the following permitted classes.
- (3) Class 1 is payments which—
  - (a) are in accordance with the constitution of the registered provider, and
  - (b) are due as interest on capital lent to the provider or subscribed in its shares.
- (4) Class 2 is payments which—
  - (a) are paid by a fully mutual housing association (within the meaning of section 1(2) of the Housing Associations Act 1985 (c. 69)),
  - (b) are paid to former members of the association, and
  - (c) are due under—
    - (i) tenancy agreements with the association, or
    - (ii) agreements under which the former members became members of the association.
- (5) Class 3 is payments which—
  - (a) are in accordance with the constitution of the registered provider making the payment (“the payer”), and
  - (b) are made to a registered provider which is a subsidiary or associate of the payer.
- <sup>F72</sup>(5A) Class 4 is payments which—
  - (a) are in accordance with the constitution of the registered provider,
  - (b) are paid for the benefit of tenants of the provider, and

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- (c) are in any particular case paid to assist the tenant to obtain other accommodation by acquiring a freehold, or long-leasehold, interest in a dwelling.

(5B) For the purposes of subsection (5A)—

“ long-leasehold interest ”, in relation to a dwelling, means the lessee's interest under a lease of the dwelling granted, for a premium, for a term certain exceeding 21 years;

“ acquiring ”, in relation to a long-leasehold interest in a dwelling, includes acquiring by grant and acquiring by assignment. ]

(6) If a registered company or [<sup>F73</sup>registered society] contravenes this section—

- (a) it may recover the wrongful gift or payment as a debt from the recipient, and  
(b) the regulator may require it to take action to recover the gift or payment.

[<sup>F74</sup>(7) The Secretary of State may by order amend this section for the purpose of—

- (a) adding to the permitted classes, or  
(b) modifying or removing a permitted class added by order under this subsection.

(8) Before making an order under subsection (7), the Secretary of State must consult—

- (a) the Charity Commission,  
(b) the regulator, and  
(c) one or more bodies appearing to the Secretary of State to represent the interests of registered providers.]

#### Textual Amendments

**F72** S. 122(5A)(5B) inserted (15.1.2012) by *Localism Act 2011 (c. 20)*, ss. 177, 240(1)(j)

**F73** Words in Act substituted (1.8.2014) by *Co-operative and Community Benefit Societies Act 2014 (c. 14)*, s. 154, **Sch. 4 para. 123** (with Sch. 5)

**F74** S. 122(7)(8) inserted (1.4.2012) by *Localism Act 2011 (c. 20)*, s. 240(2), **Sch. 17 para. 2**; S.I. 2012/628, art. 6(i) (with arts. 911141517)

#### Commencement Information

**I70** S. 122 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

## 123 Disposal of property **E+W**

Chapter 5 makes provision about disposal of property [<sup>F75</sup>by private registered providers].

#### Textual Amendments

**F75** Words in s. 123 inserted (1.4.2010) by *The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844)*, art. 1(2), **Sch. 1 para. 20**

#### Commencement Information

**I71** S. 123 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)



*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 124 Complaints **E+W**

- (1) In section 51 of, and Schedule 2 to, the Housing Act 1996 (c. 52) (schemes for investigation of complaints by housing ombudsmen) for “Relevant Authority”, wherever appearing, substitute “Regulator of Social Housing”.
- (2) In section 51 of that Act—
  - (a) for subsection (2)(a) substitute—
 

“(a) a registered provider of social housing.”,
  - (b) in subsection (2)(d) after “registered with” insert “the Regulator of Social Housing or ”, and
  - (c) at the end add—
 

“(7) Section 52 shall apply to an order under subsection (4) (with any necessary modifications).”
- (3) In paragraph 6(2) of Schedule 2 to that Act (grants) for “Housing Corporation”, in both places, substitute “Regulator of Social Housing”.
- (4) In paragraph 11(4) of Schedule 2 to that Act, omit—
  - (a) “or the Housing Corporation”, and
  - (b) “or, as the case may be, the Housing Corporation”.
- (5) At the end of Schedule 2 to that Act add—

### “General provision about orders

- 12 Section 52 shall apply to an order of the Secretary of State under this Schedule (with any necessary modifications).”

#### Commencement Information

**I72** S. 124 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 125 Voluntary undertaking **E+W**

- (1) A registered provider may give the regulator an undertaking in respect of any matter concerning social housing.
- (2) The regulator may prescribe a procedure to be followed in giving an undertaking.
- (3) In exercising a power under Chapter 6 or 7 the regulator must have regard to any undertaking offered or given.
- (4) The regulator may found a decision about whether to exercise a power under Chapter 6 or 7 wholly or partly on the extent to which an undertaking has been honoured.

#### Commencement Information

**I73** S. 125 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))



*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 126 Sustainable community strategies **E+W**

If invited by a local authority to participate in the preparation or modification of a sustainable community strategy under section 4 of the Local Government Act 2000 (c. 22), a [<sup>F76</sup>private registered provider] must co-operate with the local authority.

### Textual Amendments

**F76** Words in s. 126 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 21**

### Commencement Information

**I74** S. 126 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

## Accounts

## 127 Directions **E+W**

- (1) The regulator may give directions to [<sup>F77</sup>private registered providers] about the preparation of their accounts.
- (2) A direction may be given to a profit-making registered provider only in so far as its accounts relate to social housing activities.
- (3) The power must be exercised with a view to ensuring that accounts—
  - (a) are prepared in proper form, and
  - (b) present a true and fair view of—
    - (i) the state of affairs of each registered provider in relation to its social housing activities, and
    - (ii) the disposition of funds and assets which are, or have been, in its hands in connection with those activities.
- (4) A direction may require a registered charity to use a specified method for distinguishing in its accounts between—
  - (a) matters relating to its social housing activities, and
  - (b) other matters.
- (5) A direction—
  - (a) may make provision that applies generally or only to specified cases, circumstances or registered providers, and
  - (b) may make different provision for different cases, circumstances or registered providers.
- (6) A direction that relates to more than one registered provider may be given only after consulting one or more bodies appearing to the regulator to represent the interests of [<sup>F78</sup>private registered providers].
- (7) The regulator shall make arrangements for bringing a direction to the attention of every registered provider to which it applies.

*Status: Point in time view as at 01/04/2015.*

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#### Textual Amendments

- F77** Words in s. 127(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 22(a)**
- F78** Words in s. 127(6) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 22(b)**

#### Commencement Information

- I75** S. 127(1)-(5) (7) in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)
- I76** S. 127(6) in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), **art. 3(1)** (with art. 3(3)(4))
- I77** S. 127(6) in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), **art. 2** (with Sch.)

### 128 Submission to regulator **E+W**

- (1) Each [<sup>F79</sup>private registered provider] shall send a copy of its accounts to the regulator within the period of 6 months beginning with the end of the period to which the accounts relate.
- (2) The accounts must be accompanied by—
- an auditor's report, or
  - in the case of accounts that by virtue of an enactment are not subject to audit, any report that is required to be prepared in respect of the accounts by virtue of an enactment.
- (3) The report must specify whether the accounts comply with any relevant directions under section 127.
- [<sup>F80</sup>(4) Each local authority which is a registered provider shall send copies of the following documents to the regulator so far as they relate to the provision of social housing—
- [<sup>F81</sup>any report under paragraph 1 of Schedule 7 to the Local Audit and Accountability Act 2014 (public interest reports)] in relation to its accounts;
  - its audited accounts, accompanied by any report made under that section at the conclusion of the audit.
- (5) The local authority shall send the copies to the regulator as soon as the authority receives them.]

#### Textual Amendments

- F79** Words in s. 128(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 23(2)**
- F80** S. 128(4)(5) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 23(3)**
- F81** Words in s. 128(4)(a) substituted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), **Sch. 12 para. 91**; [S.I. 2015/841](#), **art. 3(x)**

#### Commencement Information

- I78** S. 128 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 129 Companies exempt from audit **E+W**

- (1) This section applies in relation to a registered provider which—
  - (a) is a registered company other than a charity, and
  - (b) is exempt from the audit requirements of the Companies Act 2006 (c. 46) by virtue of section 477 of that Act (small companies' exemption).
- (2) The directors of the company shall cause a report to be prepared in accordance with section 130 and made to the company's members in respect of the company's individual accounts for any year in which the company takes advantage of its exemption from audit.
- (3) “Individual accounts” has the same meaning as in section 396 of the Companies Act 2006.

### Commencement Information

**179** S. 129 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 130 Exempt companies: accountant's report **E+W**

- (1) The report required by section 129 must be prepared by a person (“the reporting accountant”) who is eligible under section 131.
- (2) The report must state whether the individual accounts are in accordance with the company's accounting records kept under section 386 of the Companies Act 2006.
- (3) On the basis of the information contained in the accounting records the report must also state whether—
  - (a) the accounts comply with Part 15 of the Companies Act 2006;
  - (b) the company is entitled to exemption from audit under section 477 of that Act (small companies' exemption) for the year in question.
- (4) The report must give the name of the reporting accountant and be signed and dated.
- (5) The report must be signed—
  - (a) where the reporting accountant is an individual, by that individual, and
  - (b) where the reporting accountant is a firm, for and on behalf of the firm by an individual authorised to do so.
- (6) In this section and sections 131 and 132 “firm” has the meaning given by section 1173(1) of the Companies Act 2006.

### Commencement Information

**180** S. 130 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 131 Exempt companies: reporting accountant **E+W**

- (1) A person is eligible for appointment by a company as a reporting accountant under section 130 if—
  - (a) either of the following conditions is satisfied, and

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- (b) the person would not be prohibited from acting as auditor of the company by virtue of section 1214 of the Companies Act 2006 (c. 46).
- (2) Condition 1 is satisfied if the person is a member of a body listed in subsection (4) and under its rules—
- (a) the person is entitled to engage in public practice, and
- (b) is not ineligible for appointment as a reporting accountant.
- (3) Condition 2 is satisfied if the person—
- (a) is subject to the rules of a body listed in subsection (4) in seeking appointment or acting as a statutory auditor under Part 42 of the Companies Act 2006, and
- (b) under those rules, is eligible for appointment as a statutory auditor under that Part.
- (4) The bodies mentioned in subsections (2) and (3) are—
- (a) the Institute of Chartered Accountants in England and Wales,
- (b) the Institute of Chartered Accountants of Scotland,
- (c) the Institute of Chartered Accountants in Ireland,
- (d) the Association of Chartered Certified Accountants,
- (e) the Association of Authorised Public Accountants,
- (f) the Association of Accounting Technicians,
- (g) the Association of International Accountants,
- (h) the Chartered Institute of Management Accountants, and
- (i) the Institute of Chartered Secretaries and Administrators.
- (5) The Secretary of State may by order amend the list of bodies in subsection (4).
- (6) References in this section to the rules of a body are to rules (whether or not laid down by the body itself) which the body has power to enforce and which are relevant for the purposes of Part 42 of the Companies Act 2006 (statutory auditors) or this section; and this includes rules relating to the admission and expulsion of members of the body so far as relevant for the purposes of that Part or this section.
- (7) An individual or a firm may be appointed as a reporting accountant; and section 1216 of the Companies Act 2006 applies to the appointment of a partnership constituted under the law of—
- (a) England and Wales,
- (b) Northern Ireland, or
- (c) any other country or territory in which a partnership is not a legal person.

#### Commencement Information

**I81** S. 131(1)-(4) (6) (7) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

**I82** S. 131(5) in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

## 132 Application of Companies Act **E+W**

- (1) The provisions of the Companies Act 2006 listed in subsection (2) apply to the reporting accountant and a reporting accountant's report as they apply to an auditor of the company and an auditor's report on the company's accounts (with any necessary modifications).

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) The provisions are—
- (a) sections 423 to 425 (duty to circulate copies of annual accounts),
  - (b) sections 431 and 432 (right of member or debenture holder to demand copies of accounts),
  - (c) sections 434 to 436 (requirements in connection with publication of accounts),
  - (d) sections 441 to 444A (duty to file accounts with registrar of companies),
  - (e) section 454(4)(b) and regulations made under that provision (functions of auditor in relation to revised accounts),
  - (f) sections 499 to 502 (auditor's right to information), and
  - (g) sections 505 and 506 (name of auditor to be stated in published copies of report).
- (3) In sections 505 and 506 as they apply by virtue of this section in a case where the reporting accountant is a firm, any reference to the senior statutory auditor shall be read as a reference to the person who signed the report on behalf of the firm.

#### Commencement Information

**I83** S. 132 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 133 Exempt companies: extraordinary audit **E+W**

- (1) This section applies where, in accordance with section 129, a company appoints a reporting accountant to prepare a report in respect of its accounts for any year.
- (2) The regulator may require the company to—
- (a) cause a qualified auditor to audit its accounts and balance sheet for that year, and
  - (b) send a copy of the report to the regulator by a specified date.
- (3) A requirement may not be imposed before the end of the financial year to which it relates.
- (4) “Qualified auditor”, in relation to a company, means a person who—
- (a) is eligible for appointment as a statutory auditor of the company under Part 42 of the Companies Act 2006 (c. 46) (statutory auditors), and
  - (b) is not prohibited from acting as statutory auditor of the company by virtue of section 1214 of that Act (independence requirement).

#### Commencement Information

**I84** S. 133 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 134 Non-audited [<sup>F73</sup>registered society] **E+W**

- (1) This section applies to a registered provider which is [<sup>F5</sup>a registered society].
- [<sup>F82</sup>(2) Section 85 of the Co-operative and Community Benefit Societies Act 2014 (“the 2014 Act”) (duty to obtain accountant's report) applies to the society as if subsection (1)

*Status: Point in time view as at 01/04/2015.*

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- (b) were omitted (accountant's report required only where turnover exceeds specified sum). ]
- (3) The regulator may require the society to—
- (a) appoint a qualified auditor to audit the society's accounts and balance sheet for any year of account in respect of which [<sup>F83</sup>section 83 of the 2014 Act (duty to appoint auditors) did not apply because of a resolution under section 84 of that Act (power to disapply auditing requirements),]
  - (b) send a copy of the auditor's report to the regulator by a specified date.
- (4) A requirement under subsection (3) may be imposed only during the year of account following the year to which the accounts relate.
- [<sup>F84</sup>(5) Qualified auditor” and “year of account” have the same meaning as in Part 7 of the 2014 Act (for “year of account” see sections 77 and 78 of that Act).]

#### 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. 122](#) (with [Sch. 5](#))
- F73** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 123](#) (with [Sch. 5](#))
- F82** S. 134(2) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 125\(2\)](#) (with [Sch. 5](#))
- F83** Words in s. 134(3)(a) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 125\(3\)](#) (with [Sch. 5](#))
- F84** S. 134(5) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 125\(4\)](#) (with [Sch. 5](#))

#### Commencement Information

- I85** S. 134 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 135 Charity E+W

- (1) This section applies to a non-profit registered provider which is a registered charity.
- (2) The charity shall—
- (a) keep proper accounting records of its transactions and its assets and liabilities in relation to its housing activities, and
  - (b) maintain a satisfactory system of control of those records, its cash holdings and its receipts and remittances in relation to those activities.
- (3) For each period of account the charity shall prepare—
- (a) a revenue account giving a true and fair view of the charity's income and expenditure during the period, so far as relating to its housing activities, and
  - (b) a balance sheet giving a true and fair view of the state of affairs of the charity as at the end of the period.
- (4) The revenue account and balance sheet must be signed by at least two directors or trustees.
- (5) “Period of account” means—
- (a) a period of 12 months, or

*Status: Point in time view as at 01/04/2015.*

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- (b) such other period not less than 6 months nor more than 18 as the charity may, with the consent of the regulator, determine.
- (6) This section does not affect any obligation under [F85Part 8 of the Charities Act 2011].

#### Textual Amendments

**F85** Words in s. 135(6) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 131](#) (with s. 20(2), Sch. 8)

#### Commencement Information

**I86** S. 135 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with Sch.)

### 136 Charity: audit **E+W**

- (1) This section applies in relation to the accounts of a charity under section 135(3).
- (2) If Condition 1 or 2 is met, the charity shall cause a qualified person to audit the accounts and report on them in accordance with section 137.
- (3) If neither Condition is met, the charity shall cause a qualified person (“the reporting accountant”) to report on the accounts in accordance with section 138.
- (4) Condition 1 is met if the accounts relate to a period during which the charity's gross income arising in connection with its housing activities was greater than the sum specified in [F86section 144(1)(a) of the Charities Act 2011].
- (5) Condition 2 is met if—
- (a) the accounts relate to a period during which the charity's gross income arising in connection with its housing activities was greater than the accounts threshold as defined by [F87section 144(1) of the Charities Act 2011,] and
  - (b) at the end of the period the aggregate value of its assets (before deduction of liabilities) in respect of its housing activities was greater than the sum specified in [F88section 144(1)(b)].
- (6) “Gross income” has the same meaning as in [F89section 144 of the Charities Act 2011].
- (7) “Qualified person” means a person professionally qualified as an accountant.

#### Textual Amendments

**F86** Words in s. 136(4) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 132\(a\)](#) (with s. 20(2), Sch. 8)

**F87** Words in s. 136(5)(a) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 132\(b\)](#) (with s. 20(2), Sch. 8)

**F88** Words in s. 136(5)(b) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 132\(c\)](#) (with s. 20(2), Sch. 8)

**F89** Words in s. 136(6) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 132\(d\)](#) (with s. 20(2), Sch. 8)

#### Commencement Information

**I87** S. 136 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with Sch.)



*Status: Point in time view as at 01/04/2015.*

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### 137 Charity: auditor's report **E+W**

- (1) An auditor appointed for the purposes of section 136(2) or 139(2) in respect of a charity's accounts shall make a report to the charity in accordance with this section.
- (2) The report must state—
  - (a) whether the revenue account gives a true and fair view of the charity's income and expenditure, so far as relating to its housing activities, and
  - (b) whether the balance sheet gives a true and fair view of the state of affairs of the charity as at the end of the period to which the accounts relate.
- (3) The report must give the name of the auditor and be signed.
- (4) The auditor shall, in preparing the report, carry out such investigations as are necessary to form an opinion as to—
  - (a) whether the charity has complied with section 135(2) during the period to which the accounts relate, and
  - (b) whether the accounts are in accordance with accounting records kept under section 135(2)(a).
- (5) If the auditor thinks that the charity has not complied section 135(2) or that the accounts are not in accordance with its accounting records, that must be stated in the report.
- (6) If the auditor fails to obtain all the information and explanations which the auditor thinks necessary for the purposes of the audit, that must be stated in the report.

#### Commencement Information

**I88** S. 137 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 138 Charity: accountant's report **E+W**

- (1) A reporting accountant appointed for the purposes of section 136(3) in respect of a charity's accounts shall make a report to the charity in accordance with this section.
- (2) The report must state whether the accounts are in accordance with accounting records kept under section 135(2)(a).
- (3) On the basis of the information in the accounting records the report must also state whether—
  - (a) the accounts comply with the requirements of [<sup>F90</sup>the Charities Act 2011];
  - (b) section 136(3) applied in respect of the accounts.
- (4) The report must give the name of the reporting accountant and be signed.
- (5) If the reporting accountant fails to obtain all the information and explanations which the reporting accountant thinks necessary for the purposes of preparing the report, that must be stated in the report.

#### Textual Amendments

**F90** Words in s. 138(3)(a) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 133](#) (with [s. 20\(2\)](#), [Sch. 8](#))



*Status: Point in time view as at 01/04/2015.*

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#### Commencement Information

**I89** S. 138 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 139 Charity: extraordinary audit **E+W**

- (1) This section applies where, in accordance with section 136(3), a charity appoints a reporting accountant to prepare a report in respect of any accounts.
- (2) The regulator may require the charity to—
  - (a) cause a qualified person to audit the accounts and prepare a report on them in accordance with section 137, and
  - (b) send a copy of the report to the regulator by a specified date.
- (3) A requirement under subsection (2) may be imposed only during the period of account following the period to which the accounts relate.
- (4) In this section—
  - “period of account” has the meaning given by section 135(5), and
  - “qualified person” has the meaning given by section 136(7).

#### Commencement Information

**I90** S. 139 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 140 Charity: auditor's powers **E+W**

- (1) This section applies to a person who is appointed by a charity for the purposes of section 136(2) or (3) or 139(2).
- (2) The charity must grant the person access to its documents, if or in so far as they relate to its housing activities.
- (3) An officer of the charity must provide such information or explanations as the person thinks necessary.

#### Commencement Information

**I91** S. 140 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 141 Offences **E+W**

- (1) A [<sup>F91</sup>private registered provider] commits an offence if it fails, without reasonable excuse, to comply with—
  - (a) a direction under section 127,
  - (b) a provision listed in subsection (2), or
  - (c) a requirement imposed under a provision listed in subsection (3).
- (2) The provisions referred to in subsection (1)(b) are—
  - (a) section 128;
  - (b) section 129;

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- (c) section 135;
  - (d) section 136.
- (3) The provisions referred to in subsection (1)(c) are—
- (a) section 133;
  - (b) section 134;
  - (c) section 139.
- (4) If a [<sup>F91</sup>private registered provider] fails to comply with a direction, provision or requirement mentioned in subsection (1) every officer of the [<sup>F91</sup>private registered provider] is guilty of an offence.
- (5) It is a defence for an officer to show that the officer did everything that could reasonably have been expected to ensure compliance by the [<sup>F91</sup>private registered provider].
- (6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) Proceedings for an offence may be brought only by or with the consent of—
- (a) the regulator, or
  - (b) the Director of Public Prosecutions.

#### Textual Amendments

**F91** Words in s. 141 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 24**

#### Commencement Information

**I92** S. 141 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### 142 High Court **E+W**

- (1) If a [<sup>F92</sup>private registered provider] fails to comply with a direction, provision or requirement mentioned in section 141(1), the High Court may on the application of the regulator make an order for the purpose of remedying the failure.
- (2) An order may include provision about costs.

#### Textual Amendments

**F92** Words in s. 142(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 25**

#### Commencement Information

**I93** S. 142 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### 143 Disclosure **E+W**

- (1) This section applies to information that a person has received while acting—
- (a) as auditor of a [<sup>F93</sup>private registered provider], or

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- (b) as a reporting accountant in relation to a [<sup>F94</sup>private registered provider].
- (2) The person may disclose the information to the regulator for a purpose connected with the regulator's functions—
- (a) despite any duty of confidentiality, and
- (b) whether or not the regulator requests the information.
- (3) The reference to disclosing information includes expressing an opinion on it.
- (4) “Reporting accountant” means a person who is appointed to prepare a report which, by virtue of any enactment, has to be prepared in respect of accounts that are not subject to audit.

#### Textual Amendments

**F93** Words in s. 143(1)(a) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 26**

**F94** Words in s. 143(1)(b) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 26**

#### Commencement Information

**I94** S. 143 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

*Insolvency etc.*

### [<sup>F95</sup>143A Application of rules about insolvency **E+W**]

This group of sections does not apply to local authorities.]

#### Textual Amendments

**F95** S. 143A inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 27**

### 144 Preparatory steps: notice **E+W**

A step specified in the Table has effect only if the person specified has given the regulator notice.

<i>Step</i>	<i>Person to give notice</i>
Any step, of a kind prescribed for the purposes of this section by the Secretary of State by order, to enforce a security over land held by a [ <sup>F96</sup> private registered provider]	The person taking the step
Presenting a petition for the winding up of a registered provider which is— (a) a registered company, or (b) [ <sup>F95</sup> a registered society]	The petitioner

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But not the presenting of a petition by the regulator under section 166

Passing a resolution for the winding up of a registered provider which is—

- (a) a registered company, or
- (b) [<sup>F5</sup>a registered society]

But not the passing of a resolution for winding-up where the regulator's consent is required under section 162 or 164

Making an administration application in accordance with paragraph 12 of Schedule B1 to the Insolvency Act 1986 in respect of a registered provider which is a registered company

The applicant

Appointing an administrator under paragraph 14 or 22 of that Schedule in respect of a registered provider which is a registered company

The person making the appointment

Filing with the court a copy of a notice of intention to appoint a person under either of those paragraphs in respect of a registered provider which is a registered company

The person filing the notice

#### 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. 122](#) (with [Sch. 5](#))

**F96** Words in s. 144 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010](#) (S.I. 2010/844), art. 1(2), [Sch. 1 para. 28](#)

#### Commencement Information

**I95** S. 144 in force at 1.4.2009 for specified purposes by [S.I. 2009/803](#), [art. 7\(b\)](#)

**I96** S. 144 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 145 Moratorium **E+W**

- (1) If a step specified in the Table below is taken in respect of a [<sup>F97</sup>private registered provider], a moratorium on the disposal of land by the provider begins.
- (2) Where a step specified in the Table is taken in respect of a [<sup>F98</sup>private registered provider], the person specified must give the regulator notice as soon as is reasonably practicable.
- (3) If the notice is not given the step is not invalidated (but the end of the moratorium depends on the notice being given — see section 146(2)).
- <sup>F99</sup>(4) .....
- [<sup>F100</sup>(5) Where the private registered provider owns land in Greater London, the regulator shall give the Greater London Authority a copy of any notice received under this section.]

*Status:* Point in time view as at 01/04/2015.

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<b>Step</b>	<b>Person</b>
Any step, of a kind prescribed for the purposes of this section by the Secretary of State by order, to enforce a security over land held by a [ <sup>F101</sup> private registered provider]	The person taking the step
The presenting of a petition for winding up a registered provider which is— (a) a registered company, or (b) [ <sup>F5</sup> a registered society] But not the presenting of a petition by the directors or other governing body of the registered provider or by the regulator under section 166	The petitioner
The passing of a resolution for the winding up of a registered provider which is— (a) a registered company, or (b) [ <sup>F5</sup> a registered society]	The registered provider
A decision by the directors or other governing body of a registered provider to present a petition for winding up where the registered provider is— (a) a registered company, or (b) [ <sup>F5</sup> a registered society]	The directors or governing body
The making of an administration order in accordance with paragraph 13 of Schedule B1 to the Insolvency Act 1986 in respect of a registered provider which is a registered company	The person who applied for the order
The appointment of an administrator under paragraph 14 or 22 of that Schedule in respect of a registered provider which is a registered company	The person making the appointment

#### 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. 122](#) (with [Sch. 5](#))
- F97** Words in s. 145(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010](#) (S.I. 2010/844), art. 1(2), [Sch. 1 para. 29\(a\)](#)
- F98** Words in s. 145(2) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010](#) (S.I. 2010/844), art. 1(2), [Sch. 1 para. 29\(a\)](#)
- F99** S. 145(4) repealed (1.4.2012) by [Localism Act 2011](#) (c. 20), s. 240(2), [Sch. 16 para. 38](#), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F100** S. 145(5) inserted (1.4.2012) by [Localism Act 2011](#) (c. 20), s. 240(2), [Sch. 19 para. 49](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)

*Status: Point in time view as at 01/04/2015.*

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**F101** Words in s. 145 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 29\(b\)](#)

**Commencement Information**

- I97** S. 145(1)-(3) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)
- I98** S. 145(4) in force at 1.4.2009 for specified purposes by [S.I. 2009/803](#), [art. 7\(b\)](#)
- I99** S. 145(4) in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

**146 Duration of moratorium E+W**

- (1) The moratorium begins when the step specified in section 145 is taken.
- (2) The moratorium ends (unless extended or cancelled) with the period of 28 working days beginning with the day on which the regulator receives notice under section 145(2).
- (3) During a moratorium the regulator may extend it (or further extend it) for a specified period, with the consent of each secured creditor of the registered provider whom the regulator is able to locate after making reasonable enquiries.
- (4) If the regulator extends a moratorium it shall notify—
  - (a) the registered provider, <sup>F102</sup>and]
  - (b) any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or its land, <sup>F103</sup>...
  - <sup>F104</sup>(c) .....
- <sup>F105</sup>(4A) If the regulator extends a moratorium in respect of a private registered provider who owns land in Greater London, the regulator shall also notify the Greater London Authority.]
- (5) During a moratorium the regulator may cancel it if satisfied that it is unnecessary to make proposals under section 152.
- (6) Before cancelling a moratorium the regulator must consult the person who took the step that triggered it.
- (7) When a moratorium ends the regulator shall give notice, and (except in the case of cancellation) an explanation of section 147, to—
  - (a) the registered provider, and
  - (b) such of its secured creditors as the regulator is able to locate after making reasonable enquiries.
- <sup>F106</sup>(8) .....
- <sup>F107</sup>(8A) When a moratorium in respect of a private registered provider who owns land in Greater London ends, the regulator shall also give notice to the Greater London Authority.]
- (9) Taking a further step during a moratorium does not—
  - (a) start a new moratorium, or
  - (b) alter the existing moratorium's duration.

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#### Textual Amendments

- F102** Word in s. 146(4)(a) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 39\(2\)\(a\)](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)
- F103** Word in s. 146(4)(b) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), art. 6(j) (with arts. 911141517)
- F104** S. 146(4)(c) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 39\(2\)\(b\)](#), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F105** S. 146(4A) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 50\(2\)](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)
- F106** S. 146(8) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 39\(3\)](#), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F107** S. 146(8A) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 50\(3\)](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)

#### Commencement Information

- I100** S. 146 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

### 147 Further moratorium **E+W**

- (1) This section applies if—
- a moratorium in respect of a [<sup>F108</sup>private registered provider] ends otherwise than by cancellation, and
  - a further step specified in section 145 is taken in relation to the provider within the period of 3 years beginning with the end of the moratorium.
- (2) The further step does not automatically trigger a further moratorium.
- (3) But the regulator may impose a further moratorium for a specified period, if each secured creditor of the registered provider whom the regulator is able to locate after making reasonable enquiries consents.
- (4) If the regulator imposes a new moratorium it shall notify—
- the registered provider, [<sup>F109</sup>and]
  - any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or any of its land, <sup>F110</sup>...
  - <sup>F111</sup>(c) .....
- [<sup>F112</sup>(4A) If the regulator imposes a new moratorium in respect of a private registered provider who owns land in Greater London, the regulator shall also notify the Greater London Authority.]
- (5) This group of sections applies to a further moratorium as to a first moratorium (except for section 146(2)).

#### Textual Amendments

- F108** Words in s. 147(1)(a) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 30](#)
- F109** Word in s. 147(4)(a) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 40\(a\)](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)



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- F110** Word in s. 147(4)(b) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(j) (with arts. 911141517)
- F111** S. 147(4)(c) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 16 para. 40(b), **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)
- F112** S. 147(4A) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 51**; S.I. 2012/628, art. 6(i) (with arts. 911141517)

#### Commencement Information

- I101** S. 147 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

### 148 Effect of moratorium **E+W**

- (1) During a moratorium [<sup>F113</sup>neither] the HCA [<sup>F114</sup>, nor the Greater London Authority, may]—
- (a) <sup>F115</sup> ... give the registered provider a direction under section 32(4), [<sup>F116</sup>or]
  - (b) <sup>F117</sup> ... take steps to enforce such a direction against the registered provider.
- (2) During a moratorium a disposal of the registered provider's land requires the regulator's prior consent.
- (3) Section 149 sets out exceptions to subsection (2).
- (4) Consent—
- (a) may be given before the moratorium begins, and
  - (b) may be subject to conditions.
- (5) This section does not prevent a liquidator from disclaiming land as onerous property during a moratorium.
- (6) In this section “land” includes a present or future interest in rent or other receipts arising from land.

#### Textual Amendments

- F113** Word in s. 148(1) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 52(a)**; S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F114** Words in s. 148(1) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 52(b)**; S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F115** Words in s. 148(1)(a) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 19 para. 52(c), **Sch. 25 Pt. 31**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)
- F116** Word in s. 148(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 52(d)**; S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F117** Words in s. 148(1)(b) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 19 para. 52(c), **Sch. 25 Pt. 31**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

#### Commencement Information

- I102** S. 148 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

### 149 Exempted disposals **E+W**

- (1) The regulator's consent is not required under section 148 for the following exceptions.



*Status: Point in time view as at 01/04/2015.*

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- (2) Exception 1 is a letting under—
  - (a) an assured tenancy, or
  - (b) an assured agricultural occupancy.
- (3) Exception 2 is a letting under what would be an assured tenancy or an assured agricultural occupancy but for any of paragraphs 4 to 8, 12(1)(h) and 12ZA to 12B of Schedule 1 to the Housing Act 1988 (c. 50) (tenancies which cannot be assured tenancies).
- (4) Exception 3 is a letting under a secure tenancy.
- (5) Exception 4 is a letting under what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 to the Housing Act 1985 (c. 68) (tenancies which are not secure tenancies).
- (6) Exception 5 is a disposal for which consent is required under—
  - (a) section 81 or 133 of the Housing Act 1988 (c. 50), or
  - (b) section 173 of the Local Government and Housing Act 1989 (c. 42).
- (7) Exception 6 is a disposal under Part V of the Housing Act 1985 (right to buy).
- (8) Exception 7 is a disposal under the right conferred by—
  - (a) section 180, or
  - (b) section 16 of the Housing Act 1996 (c. 52) (tenant's right to acquire social housing in Wales).

#### Commencement Information

**I103** S. 149 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 150 Disposals without consent **E+W**

- (1) A purported disposal by a registered provider is void if—
  - (a) it requires the regulator's consent under section 148, and
  - (b) the regulator has not given consent.
- (2) But subsection (1) does not apply to a disposal by a non-profit registered provider to one or more individuals (“the buyer”) if—
  - (a) the disposal is of a single dwelling, and
  - (b) the registered provider reasonably believes at the time of the disposal that the buyer intends to use the property as the buyer's principal residence.

#### Commencement Information

**I104** S. 150 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 151 Interim manager **E+W**

- (1) During a moratorium the regulator may appoint an interim manager of the registered provider.

*Status: Point in time view as at 01/04/2015.*

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- (2) An appointment may relate to the registered provider's affairs generally or to affairs specified in the appointment.
- (3) Appointment shall be on terms and conditions (including as to remuneration) specified in, or determined in accordance with, the appointment.
- (4) An appointment under this section shall come to an end with the earliest of the following—
  - (a) the end of the moratorium,
  - (b) the agreement of proposals under section 152, or
  - (c) a date specified in the appointment.
- (5) An interim manager shall have—
  - (a) any power specified in the appointment, and
  - (b) any other power in relation to the registered provider'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 registered provider).
- (6) But an interim manager may not—
  - (a) dispose of land, or
  - (b) grant security over land.

#### Commencement Information

**I105** S. 151 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 152 Proposals **E+W**

- (1) During a moratorium the regulator may make proposals about the future ownership and management of the registered provider's land, with a view to ensuring that the property will be properly managed by a registered provider.
- (2) In making proposals the regulator shall—
  - (a) have regard to the interests of the registered provider's creditors as a whole, and
  - (b) so far as is reasonably practicable avoid worsening the position of unsecured creditors.
- (3) Proposals may provide for the appointment of a manager in accordance with section 155 to implement all or part of the proposals.
- (4) Proposals may not include anything which would result in—
  - (a) a preferential debt being paid otherwise than in priority to a non-preferential debt, <sup>F118</sup> ...
  - <sup>F119</sup>(aa) an ordinary preferential debt being paid otherwise than in priority to a secondary preferential debt,]
  - (b) a preferential creditor (PC1) being paid a smaller proportion of <sup>F120</sup>an ordinary preferential debt] than another preferential creditor (PC2) (unless PC1 consents) <sup>F121</sup>or

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- (c) a preferential creditor (PC1) being paid a smaller proportion of a secondary preferential debt than another preferential creditor (PC2) (unless PC2 consents).]
- (5) Proposals relating to a registered provider which is a charity (C1)—
  - (a) may not require it to act outside the terms of its trusts, and
  - (b) may provide for the disposal of accommodation only to another charity whose objects the regulator thinks are similar to those of C1.

#### Textual Amendments

- F118** Word in s. 152(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), **30(2)(a)** (with art. 3)
- F119** S. 152(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), **30(2)(b)** (with art. 3)
- F120** Words in s. 152(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), **30(2)(c)** (with art. 3)
- F121** S. 152(4)(c) and preceding word inserted (1.1.2015) by [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), **30(2)(d)** (with art. 3)

#### Commencement Information

- I106** S. 152 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### 153 Proposals: procedure **E+W**

- (1) Before making proposals the regulator shall consult—
  - (a) the registered provider,
  - (b) its tenants (so far as is reasonably practicable),
  - (c) if the registered provider is [<sup>F5</sup>a registered society], the [<sup>F122</sup>Financial Conduct Authority], and
  - (d) if the registered provider is a registered charity, the Charity Commission.
- (2) The regulator shall send a copy of proposals to—
  - (a) the registered provider and its officers,
  - (b) such of its secured creditors as the regulator is able to locate after making reasonable enquiries, and
  - (c) any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or any of its land.
- (3) The regulator shall also make arrangements for bringing proposals to the attention of—
  - (a) the registered provider's members,
  - (b) its tenants, and
  - (c) its unsecured creditors.
- (4) If each secured creditor to whom proposals were sent agrees to the proposals by notice to the regulator, the proposals have effect.
- (5) Proposals may be agreed with modifications if—
  - (a) each secured creditor to whom the proposals were sent consents by notice to the regulator, and
  - (b) the regulator consents.

*Status: Point in time view as at 01/04/2015.*

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- (6) The regulator shall send a copy of agreed proposals to—
- (a) the registered provider and its officers,
  - (b) its secured creditors to whom the original proposals were sent,
  - (c) any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or any of its land,
  - (d) if the registered provider is [<sup>F5</sup>a registered society], the [<sup>F123</sup>Financial Conduct Authority], and
  - (e) if the registered provider is a registered charity, the Charity Commission.
- (7) The regulator shall also make arrangements for bringing agreed proposals to the attention of—
- (a) the registered provider's members,
  - (b) its tenants, and
  - (c) its unsecured creditors.
- (8) Proposals may be amended by agreement between the secured creditors to whom the original proposals were sent and the regulator; and this section and section 152 apply to an amendment as to the original proposals.

#### 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. 122](#) (with [Sch. 5](#))
- F122** Words in s. 153(1)(c) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013](#) (S.I. 2013/496), art. 1(1), [Sch. 11 para. 8\(2\)](#), [\(3\)\(b\)](#) (with [Sch. 12](#))
- F123** Words in s. 153(6)(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. 8\(2\)](#), [\(3\)\(b\)](#) (with [Sch. 12](#))

#### Commencement Information

- I107** S. 153 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 154 Proposals: effect **E+W**

- (1) The following are obliged to implement agreed proposals—
- (a) the regulator,
  - (b) the registered provider,
  - (c) its creditors, and
  - (d) any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or any of its land.
- (2) The following shall co-operate with implementation of agreed proposals—
- (a) in the case of a charitable trust, its trustees,
  - (b) in the case of [<sup>F5</sup>a registered society], its committee members, and
  - (c) in the case of a registered company, its directors.
- (3) Subsection (2) does not require or permit a breach of a fiduciary or other duty.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### 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. 122](#) (with [Sch. 5](#))

#### Commencement Information

**I108** S. 154 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 155 **Manager: appointment** E+W

- (1) This section applies where agreed proposals provide for the appointment of a manager.
- (2) The proposals must provide for the manager to be paid reasonable remuneration and expenses.
- (3) The regulator shall appoint a manager.
- (4) The regulator may give the manager directions (general or specific).
- (5) The manager may apply to the High Court for directions (and directions of the regulator are subject to directions of the High Court).
- (6) If the registered provider is a charity, the regulator must notify the Charity Commission that a manager has been appointed.
- (7) The regulator may appoint a new manager in place of a person who ceases to be manager (in accordance with terms of appointment specified in the proposals or determined by the regulator).

#### Commencement Information

**I109** S. 155 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 156 **Manager: powers** E+W

- (1) A manager—
  - (a) may do anything necessary for the purpose of the appointment,
  - (b) acts as the registered provider's agent (and is not personally liable on a contract), and
  - (c) has ostensible authority to act for the registered provider (so that a person dealing with the manager in good faith and for value need not inquire into the manager's powers).
- (2) In particular, the terms of a manager's appointment may confer power—
  - (a) to sell or otherwise dispose of land by public auction or private contract;
  - (b) to raise or borrow money;
  - (c) to grant security over land;
  - (d) to grant or accept surrender of a lease;
  - (e) to take a lease;
  - (f) to take possession of property;
  - (g) to appoint a solicitor, accountant or other professional to assist the manager;

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- (h) to appoint agents and staff (and to dismiss them);
  - (i) to make payments;
  - (j) to bring or defend legal proceedings;
  - (k) to refer a question to arbitration;
  - (l) to make any arrangement or compromise;
  - (m) to carry on the business of the registered provider;
  - (n) to carry out works and do other things in connection with the management or transfer of land;
  - (o) to take out insurance;
  - (p) to use the registered body's seal;
  - (q) to execute in the name and on behalf of the registered provider any deed, receipt or other document;
  - (r) to do anything incidental to a power in paragraphs (a) to (q).
- (3) A manager shall so far as is reasonably practicable consult and inform the registered provider's tenants about an exercise of powers likely to affect them.

#### Commencement Information

**1110** S. 156 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 157 **Manager of [F73 registered society]: extra powers** **E+W**

- (1) This section applies to a manager appointed to implement proposals relating to [F5a registered society].
- (2) The appointment may confer on the manager power to make and execute on behalf of the society—
  - (a) an instrument providing for the amalgamation of the society with another [F73 registered society], or
  - (b) an instrument transferring its engagements.
- (3) An instrument providing for the amalgamation of a society (“S1”) with another has the same effect as a resolution by S1 under [F124 section 109 of the Co-operative and Community Benefit Societies Act 2014] (amalgamation of societies by special resolution).
- (4) An instrument transferring engagements has the same effect as a transfer of engagements under [F125 section 110 or 112 of the Co-operative and Community Benefit Societies Act 2014] (transfer by special resolution to another society or company).
- (5) A copy of the instrument shall be sent to and registered by the [F126 Financial Conduct 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.

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#### 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. 122](#) (with Sch. 5)
- F73** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 123](#) (with Sch. 5)
- F124** Words in s. 157(3) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 126\(2\)](#) (with Sch. 5)
- F125** Words in s. 157(4) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 126\(3\)](#) (with Sch. 5)
- F126** Words in s. 157(5) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), Sch. 11 para. 8(2), [\(3\)\(c\)](#) (with Sch. 12)

#### Commencement Information

- I111** S. 157 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

### 158 Assistance by regulator **E+W**

- (1) The regulator may give financial or other assistance to [<sup>F127</sup>the registered provider] for the purpose of preserving its position pending the agreement of proposals.
- (2) The regulator may give financial or other assistance to [<sup>F128</sup>the registered provider], or a manager appointed under section 155, to facilitate the implementation of agreed proposals.
- (3) In particular, the regulator may—
  - (a) lend staff;
  - (b) arrange payment of the manager's remuneration and expenses.
- (4) The regulator may do the following only with the Secretary of State's consent—
  - (a) make grants,
  - (b) make loans,
  - (c) indemnify a manager,
  - (d) make payments in connection with secured loans, and
  - (e) guarantee payments in connection with secured loans.

#### Textual Amendments

- F127** Words in s. 158(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 31](#)
- F128** Words in s. 158(2) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 31](#)

#### Commencement Information

- I112** S. 158 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)



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## 159 Applications to court **E+W**

- (1) [<sup>F129</sup>A private registered provider] may apply to the High Court where the registered provider thinks that action taken by a manager is not in accordance with the agreed proposals.
- (2) A creditor of [<sup>F130</sup>a private registered provider] may apply to the High Court where the creditor thinks that action taken by a manager is not in accordance with the agreed proposals.
- (3) The High Court may—
  - (a) confirm, annul or modify an act of the manager;
  - (b) give the manager directions;
  - (c) make any other order.
- (4) If a person bound by agreed proposals (P1) thinks that action by another person (P2) breaches section 154, P1 may apply to the High Court.
- (5) The High Court may—
  - (a) confirm, annul or modify the action;
  - (b) grant relief by way of injunction, damages or otherwise.

### Textual Amendments

**F129** Words in s. 159(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 32(a)**

**F130** Words in s. 159(2) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 32(b)**

### Commencement Information

**I113** S. 159 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

## *Restructuring and dissolution*

## [<sup>F131</sup>159A] Application of rules about restructuring and dissolution **E+W**

This group of sections does not apply to local authorities.]

### Textual Amendments

**F131** S. 159A inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 33**

## 160 Company: arrangements and reconstructions **E+W**

- (1) This section applies to a non-profit registered provider which is a registered company.
- (2) A voluntary arrangement under Part 1 of the Insolvency Act 1986 (c. 45) in relation to the company is effective only if the regulator has first consented.
- (3) An order under section 899 of the Companies Act 2006 (c. 46) (court sanction for compromise or arrangement)—



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- (a) is effective only if the regulator has first consented, and
  - (b) does not take effect until a copy of the consent is delivered to the registrar of companies.
- (4) An order under section 900 of the Companies Act 2006 (powers of court to facilitate reconstruction or amalgamation) is effective only if the regulator has first consented.
  - (5) The requirement in section 900(6) of the Companies Act 2006 (sending copy of order to registrar) is satisfied only if the copy is accompanied by a copy of the regulator's consent.

#### Commencement Information

**I114** S. 160 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 161 Company: conversion into [<sup>F73</sup>registered society] **E+W**

- (1) This section applies to a non-profit registered provider which is a registered company.
- (2) The registrar of companies may register a resolution under [<sup>F132</sup>section 115 of the Co-operative and Community Benefit Societies Act 2014] for converting the company into [<sup>F5</sup>a registered society] only if—
  - (a) the regulator has consented to the resolution, and
  - (b) a copy of the consent accompanies the resolution as sent to the registrar.
- (3) The regulator shall register the body created by the conversion and designate it as a non-profit organisation.
- (4) Pending registration the body shall be treated as if it were registered and designated as a non-profit organisation.

#### 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. 122](#) (with [Sch. 5](#))

**F73** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014](#) (c. 14), s. 154, [Sch. 4 para. 123](#) (with [Sch. 5](#))

**F132** Words in s. 161(2) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014](#) (c. 14), s. 154, [Sch. 4 para. 127](#) (with [Sch. 5](#))

#### Commencement Information

**I115** S. 161 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 162 Company: winding up **E+W**

- (1) This section applies to a non-profit registered provider which is a registered company.
- (2) A special resolution for the voluntary winding-up of the company under the Insolvency Act 1986 (c. 45) is effective only if the regulator has first consented.

*Status: Point in time view as at 01/04/2015.*

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- (3) The requirement under section 30 of the Companies Act 2006 (c. 46) (sending copy of resolution to registrar) is satisfied only if the copy is accompanied by a copy of the regulator's consent.

#### Commencement Information

**I116** S. 162 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 163 [<sup>F73</sup>Registered society]: restructuring **E+W**

- (1) This section applies to a non-profit registered provider which is [<sup>F5</sup>a registered society].
- (2) The [<sup>F133</sup>Financial Conduct Authority] may register a resolution passed by the society for the purposes of restructuring provisions listed in subsection (3) only if—
- the regulator has consented to the resolution, and
  - a copy of the consent accompanies the resolution as sent to the Authority.
- [<sup>F134</sup>(3) The following provisions of the Co-operative and Community Benefit Societies Act 2014 are the restructuring provisions—
- section 109 (amalgamation of societies);
  - section 110 (transfer of engagements between societies);
  - section 112 (conversion of society into a company etc).]

(4) Where a resolution is registered in accordance with subsection (2), any body created or to whom engagements are transferred—

    - must be registered by the regulator and designated as a non-profit organisation, and
    - pending registration shall be treated as registered and designated as a non-profit organisation.

#### 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. 122](#) (with [Sch. 5](#))
- F73** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014](#) (c. 14), s. 154, [Sch. 4 para. 123](#) (with [Sch. 5](#))
- F133** Words in s. 163(2) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013](#) (S.I. 2013/496), [art. 1\(1\)](#), [Sch. 11 para. 8\(2\)](#), [\(3\)\(d\)](#) (with [Sch. 12](#))
- F134** S. 163(3) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014](#) (c. 14), s. 154, [Sch. 4 para. 128](#) (with [Sch. 5](#))

#### Commencement Information

**I117** S. 163 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 164 [<sup>F73</sup>Registered society]: winding up **E+W**

- (1) This section applies to a non-profit registered provider which is [<sup>F5</sup>a registered society].
- (2) A resolution for the voluntary winding-up of the society under the Insolvency Act 1986 is effective only if the regulator has first consented.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) The requirement in section 30 of the Companies Act 2006 (c. 46) (as applied by <sup>F135</sup>section 123 of the Co-operative and Community Benefit Societies Act 2014] and section 84(3) of the Insolvency Act 1986) (sending copy of resolution to <sup>F136</sup>Financial Conduct Authority]) is satisfied only if the copy is accompanied by a copy of the regulator's consent.

#### 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. 122](#) (with Sch. 5)
- F73** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 123](#) (with Sch. 5)
- F135** Words in s. 164(3) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 129](#) (with Sch. 5)
- F136** Words in s. 164(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. 8\(4\)](#) (with Sch. 12)

#### Commencement Information

- I118** S. 164 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

### 165 <sup>F73</sup>Registered society]: dissolution **E+W**

- (1) This section applies to a non-profit registered provider which is—
- <sup>F5</sup>a registered society], and
  - to be dissolved by instrument of dissolution in accordance with <sup>F137</sup>section 119 of the Co-operative and Community Benefit Societies Act 2014.]
- (2) The <sup>F138</sup>Financial Conduct Authority] may register the instrument under <sup>F139</sup>section 121], or cause notice of the dissolution to be advertised under <sup>F140</sup>section 122], only if—
- the regulator has consented to the dissolution, and
  - a copy of the consent accompanies the instrument as sent to the Authority.

#### 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. 122](#) (with Sch. 5)
- F73** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 123](#) (with Sch. 5)
- F137** Words in s. 165(1)(b) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 130\(2\)](#) (with Sch. 5)
- F138** Words in s. 165(2) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 11 para. 8\(2\)](#), [\(3\)\(e\)](#) (with Sch. 12)
- F139** Words in s. 165(2) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 130\(3\)\(a\)](#) (with Sch. 5)
- F140** Words in s. 165(2) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 130\(3\)\(b\)](#) (with Sch. 5)

*Status: Point in time view as at 01/04/2015.*

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**Commencement Information**

**I119** S. 165 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

**166 Winding up petition by regulator** E+W

- (1) This section applies to a non-profit registered provider which is—
  - (a) a registered company, or
  - (b) [<sup>F5</sup>a registered society].
- (2) The regulator may present a petition for the registered provider to be wound up under the Insolvency Act 1986 (c. 45) on any of the following grounds.
- (3) Ground 1 is that the registered provider is failing properly to carry out its objects.
- (4) Ground 2 is that the registered provider is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986.
- (5) Ground 3 is that the regulator has directed the registered provider under section 253 to transfer all its land to another person.

**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. 122](#) (with [Sch. 5](#))

**Commencement Information**

**I120** S. 166 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

**167 Transfer of property** E+W

- (1) This section applies—
  - (a) where a non-profit registered provider which is [<sup>F5</sup>a registered society] is dissolved in accordance with [<sup>F141</sup>section 119 or 123 of the Co-operative and Community Benefit Societies Act 2014], and
  - (b) where a non-profit registered provider which is a registered company is wound up under the Insolvency Act 1986.
- (2) Any surplus property that is available after satisfying the registered provider's liabilities shall be transferred—
  - (a) to the regulator, or
  - (b) if the regulator directs, to a specified non-profit registered provider.
- (3) If land belonging to the registered provider needs to be sold to satisfy its liabilities, the regulator may discharge those liabilities so as to ensure that the land is instead transferred in accordance with subsection (2).
- (4) Where the registered provider dissolved or wound up is a charity, a registered provider may be specified under subsection (2)(b) only if it is a charity whose objects the regulator thinks are similar to those of the original charity.
- (5) This section has effect despite anything in—
  - <sup>F142</sup>(a) .....

*Status: Point in time view as at 01/04/2015.*

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- (b) the Insolvency Act 1986,
- (c) the Companies Act 2006 (c. 46),
- [<sup>F143</sup>(ca) the Co-operative and Community Benefit Societies Act 2014,] or
- (d) the constitution of a registered provider.

#### 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. 122](#) (with [Sch. 5](#))
- F141** Words in s. 167(1)(a) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 131\(2\)](#) (with [Sch. 5](#))
- F142** S. 167(5)(a) omitted (1.8.2014) by virtue of [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 131\(3\)\(a\)](#) (with [Sch. 5](#))
- F143** S. 167(5)(ca) inserted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 131\(3\)\(b\)](#) (with [Sch. 5](#))

#### Commencement Information

- I121** S. 167 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 168 Section 167: supplemental **E+W**

- (1) This section applies to property transferred to the regulator in accordance with section 167(2)(a).
- (2) The regulator may dispose of the property only to a non-profit registered provider.
- (3) Where the registered provider wound up or dissolved was a charity, the regulator may dispose of the property only to a registered provider—
  - (a) which is a charity, and
  - (b) whose objects the regulator thinks are similar to those of the original charity.
- (4) If the property includes land subject to a mortgage or charge, the regulator may dispose of the land—
  - (a) subject to that mortgage or charge, or
  - (b) subject to a new mortgage or charge in favour of the regulator.

#### Commencement Information

- I122** S. 168 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 169 Extension of sections 167 and 168 **E+W**

- The Secretary of State may by regulations provide for sections 167 and 168 to apply in relation to a registered provider which is a charity but not a registered company—
- (a) in specified circumstances, and
  - (b) with specified modifications.

*Status: Point in time view as at 01/04/2015.*

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#### Commencement Information

**I123** S. 169 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

## CHAPTER 5 E+W

### DISPOSAL OF PROPERTY <sup>[F144]</sup>BY PRIVATE REGISTERED PROVIDERS]

#### Textual Amendments

**F144** Words in Pt. 2 Ch. 5 inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 34**

#### *Introductory*

### 170 Overview E+W

This Chapter makes provision about the disposal of property by <sup>[F145]</sup>private registered providers].

#### Textual Amendments

**F145** Words in s. 170 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 35**

#### Commencement Information

**I124** S. 170 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### 171 Power to dispose E+W

- (1) A <sup>[F146]</sup>private registered provider] may dispose of land.
- (2) But a non-profit registered provider may dispose of the landlord's interest under a secure tenancy only to another non-profit registered provider <sup>[F147]</sup>or to a local authority which is a registered provider].
- (3) Subsection (1) is subject to the following provisions of this Chapter (which include provisions requiring the regulator's consent for certain disposals).

#### Textual Amendments

**F146** Words in s. 171(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 36(a)**

**F147** Words in s. 171(2) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 36(b)**

#### Commencement Information

**I125** S. 171 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

*Status: Point in time view as at 01/04/2015.*

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### *Regulator's consent*

#### **172 Requirement of consent** E+W

- (1) Disposal of a dwelling by a [<sup>F148</sup>private registered provider] requires the regulator's consent if the dwelling is social housing.
- (2) The regulator shall not consent to a disposal by a non-profit registered provider which it thinks is being made with a view to enabling the provider to distribute assets to members.
- (3) Consent is not required under this section if the disposal falls within an exception listed in section 173.

#### **Textual Amendments**

**F148** Words in s. 172(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 37](#)

#### **Commencement Information**

**I126** S. 172 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

#### **173 Exceptions** E+W

- (1) This section lists exceptions to the requirement of consent in section 172.
- (2) Exception 1 is that consent is not required for disposal by a registered provider by way of—
  - (a) an assured tenancy,
  - (b) an assured agricultural occupancy,
  - (c) an arrangement that would be an assured tenancy or an assured agricultural occupancy but for any of paragraphs 4 to 8, 12(1)(h) and 12ZA to 12B of Schedule 1 to the Housing Act 1988 (c. 50) (exclusions),
  - (d) a secure tenancy, or
  - (e) an arrangement that would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 to the Housing Act 1985 (c. 68) (exclusions).
- (3) Exception 2 is that consent is not required for a disposal for which consent is required under—
  - (a) section 81 or 133 of the Housing Act 1988, or
  - (b) section 173 of the Local Government and Housing Act 1989 (c. 42).
- (4) Exception 3 is that consent is not required for a disposal under Part V of the Housing Act 1985 (right to buy).
- (5) Exception 4 is that consent is not required for a disposal in pursuance of a tenant's right to acquire under—
  - (a) section 180, or
  - (b) section 16 of the Housing Act 1996 (c. 52) (tenant's right to acquire social housing in Wales).



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### Commencement Information

**I127** S. 173 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 174 Procedure E+W

- (1) Consent may be—
  - (a) general, or
  - (b) specific (whether as to particular registered providers, as to particular property, as to particular forms of disposal or in any other way).
- (2) Consent may be retrospective.
- (3) Consent may be expressed by reference to a policy for disposals submitted by a registered provider.
- (4) Consent may be conditional.
- (5) Before giving consent the regulator must consult—
  - <sup>F149</sup>(a) .....
  - <sup>F150</sup>(aa) the Greater London Authority,
  - (b) one or more bodies appearing to it to represent the interests of [<sup>F151</sup>private registered providers],
  - <sup>F152</sup>(ba) any body for the time being nominated under section 278A,  
and
  - (c) one or more [<sup>F153</sup>other] bodies appearing to it to represent the interests of tenants.
- (6 Subsection (5) does not apply to specific consent relating only to one or more particular registered providers or properties.

### Textual Amendments

- F149** S. 174(5)(a) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 41](#), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), [art. 6\(i\)\(j\)](#) (with arts. 911141517)
- F150** S. 174(5)(aa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 53](#); [S.I. 2012/628](#), [art. 6\(i\)](#) (with arts. 911141517)
- F151** Words in s. 174(5)(b) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 38](#)
- F152** S. 174(5)(ba) inserted (12.11.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), [ss. 26\(3\)\(a\)](#), 148(1)(c)
- F153** Word in s. 174(5)(c) inserted (12.11.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), [ss. 26\(3\)\(b\)](#), 148(1)(c)

### Commencement Information

- I128** S. 174(1)-(4) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))
- I129** S. 174(5)(6) in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#) (with art. 3(3)(4))

## 175 Disposal without consent E+W

- (1) A purported disposal by a [<sup>F154</sup>private registered provider] is void if—



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- (a) it requires the regulator's consent, and
  - (b) the regulator has not given consent.
- (2) But subsection (1) does not apply to a disposal by a non-profit registered provider to one or more individuals (“the buyer”) if—
- (a) the disposal is of a single dwelling, and
  - (b) the registered provider reasonably believes at the time of the disposal that the buyer intends to use the property as the buyer's principal residence.

#### Textual Amendments

**F154** Words in s. 175(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 39**

#### Commencement Information

**I130** S. 175 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

### 176 Notification where disposal consent not required **E+W**

- (1) If a non-profit registered provider disposes of land other than a dwelling which is social housing it shall notify the regulator as soon as is reasonably practicable.
- (2) The regulator may give a direction dispensing with the notification requirement.
- (3) Section 174(1) and (3) to (6) applies to a direction under this section as it applies to consent under section 172.

#### Commencement Information

**I131** S. 176 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

#### *Proceeds*

### 177 Separate accounting **E+W**

- (1) The accounts of a [<sup>F155</sup>private registered provider] must show its net disposal proceeds, as a separate “disposal proceeds fund”.
- (2) The following are net disposal proceeds—
  - (a) net proceeds of sale to a tenant in pursuance of the right to acquire conferred by section 180,
  - (b) net proceeds of sale to a tenant in pursuance of the right to acquire conferred by section 16 of the Housing Act 1996 (c. 52),
  - (c) net proceeds of sale of property in respect of which a grant was made under section 21 of that Act,
  - (d) net proceeds of sale of property in respect of which a grant was made under section 19 of this Act in respect of discounts given by a registered provider on disposals of dwellings to tenants,
  - (e) grant received under section 20 or 21 of the 1996 Act,

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- (f) grant received under section 19 of this Act in respect of discounts given by a registered provider on disposals of dwellings to tenants,
  - (g) repayments of discount in respect of which grant was received under section 20 or 21 of the 1996 Act,
  - (h) repayments of discount in respect of which grant was received under section 19 of this Act in respect of discounts given by a registered provider on disposals of dwellings to tenants,
  - (i) other proceeds of sale specified by the regulator, and
  - (j) other grants specified by the regulator.
- (3) The regulator shall determine amounts to be deducted in determining net proceeds of sale.
- (4) The method of constituting the disposal proceeds fund and showing it in the accounts shall be in accordance with a direction of the regulator.
- (5) Subsections (5) to (7) of section 127 apply to a direction under this section as to a direction under that section.
- (6) Sections 141 and 142 apply in relation to a direction under this section as in relation to a direction under section 127.
- (7) Interest shall be added to the fund in accordance with a determination made by the regulator.
- (8) Where this section applies in relation to the proceeds of sale arising on a disposal, section 32 above, section 27 of the Housing Act 1996 (c. 52) and section 52 of the Housing Act 1988 (c. 50) do not apply.

#### Textual Amendments

**F155** Words in s. 177(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 40**

#### Commencement Information

**I132** S. 177 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

## 178 Use of proceeds **E+W**

- (1) Sums in a [<sup>F156</sup>private registered provider's] disposal proceeds fund may be used or allocated only in accordance with a direction by the regulator.
- (2) The regulator may give a direction only with the Secretary of State's approval.
- (3) If at the end of a period specified by the regulator the disposal proceeds fund includes sums which have not been allocated in accordance with subsection (1), the regulator may require the registered provider to pay the sums [<sup>F157</sup>—
- (a) in the case of sums representing net disposal proceeds relating to property outside Greater London, to the HCA, and
  - (b) in the case of sums representing net disposal proceeds relating to property in Greater London, to the Greater London Authority.]

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#### Textual Amendments

- F156** Words in s. 178(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 41**
- F157** S. 178(3)(a)(b) substituted for words (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 19 para. 54**; [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)

#### Commencement Information

- I133** S. 178 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### *Tenants' rights and duties*

## **179 Application of Housing Act 1996** **E+W**

- (1) The following provisions of the Housing Act 1996 apply in relation to disposals of social housing by [<sup>F158</sup>private registered providers], with the modifications set out below (and any other necessary modifications).
- (2) The provisions are—
- sections 11 to 12 (repayment of discount on disposal),
  - sections 12A and 12B (landlord's right of first refusal),
  - section 13 (disposal of property in National Park), and
  - sections 14 and 15 (supplemental).
- (3) In those provisions—
- references to a registered social landlord shall be treated as references to a [<sup>F159</sup>private registered provider],
  - references to consent given by the Welsh Ministers under section 9 of the 1996 Act shall be treated as references to consent given by the regulator under section 172 of this Act,
  - references to the Welsh Ministers in connection with a power to make orders or regulations shall be treated as references to the Secretary of State,
  - in section 12(5)(b) of the 1996 Act the reference to the Welsh Ministers shall be treated as a reference to the HCA, and
  - references to a resolution of the National Assembly for Wales shall be treated as references to a resolution of either House of Parliament.
- (4) This section does not affect the continued application of the provisions listed in subsection (2) in relation to disposals made before this section comes into force.

#### Textual Amendments

- F158** Words in s. 179(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 42(a)**
- F159** Words in s. 179(3)(a) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 42(b)**

#### Commencement Information

- I134** S. 179 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

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### Right to acquire

#### 180 Right to acquire **E+W**

- (1) The tenant of a dwelling in England has a right to acquire the dwelling if—
- (a) the landlord is a <sup>F160</sup>private registered provider] or a registered social landlord,
  - (b) the tenancy is within subsection (2),
  - (c) the provision of the dwelling was publicly funded,
  - (d) the dwelling has remained in the social rented sector ever since that provision, and
  - (e) the tenant satisfies any qualifying conditions applicable under Part V of the Housing Act 1985 (c. 68) (as it applies by virtue of section 184).
- (2) A tenancy is within this subsection if it is—
- (a) an assured tenancy, other than <sup>F161</sup>... a long tenancy, or
  - (b) a secure tenancy.
- <sup>F162</sup>(2A) The Secretary of State may by regulations provide that an assured shorthold tenancy of a description specified in the regulations is not a tenancy within subsection (2).]
- (3) The reference in subsection (1)(a) to a <sup>F163</sup>private registered provider] includes—
- (a) a person who provided the dwelling in fulfilment of a condition imposed by the HCA when giving assistance to the person;
  - (b) a person who provided the dwelling wholly or partly by means of a grant under section 27A of the Housing Act 1996 (c. 52).

#### Textual Amendments

- F160** Words in s. 180(1)(a) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 43(a)**
- F161** Words in s. 180(2)(a) repealed (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss. 165(2), 240(2), **Sch. 25 Pt. 23** (with s. 165(4)); S.I. 2012/57, art. 4(1)(r) (with arts. 679-11); S.I. 2012/628, art. 6(c) (with arts. 911141517)
- F162** S. 180(2A) inserted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss. 165(3), 240(2) (with s. 165(4)); S.I. 2012/57, art. 4(1)(r) (with arts. 679-11); S.I. 2012/628, art. 6(c) (with arts. 911141517)
- F163** Words in s. 180(3) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 43(b)**

#### Modifications etc. (not altering text)

- C2** S. 180(2) restricted (E.) (1.4.2012) by [The Transfer of Tenancies and Right to Acquire \(Exclusion\) Regulations 2012 \(S.I. 2012/696\)](#), regs. 1(1), 4

#### Commencement Information

- I135** S. 180 in force at 1.4.2010 by S.I. 2010/862, art. 2 (with Sch.)

#### 181 Interpretation: “publicly funded” **E+W**

- (1) The provision of a dwelling was publicly funded if any of the following conditions is satisfied.

*Status: Point in time view as at 01/04/2015.*

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- (2) Condition 1 is that—
- (a) the dwelling was provided by a person in fulfilment of a condition imposed by the HCA when giving assistance to the person, and
  - (b) before giving the assistance the HCA notified the person that if it did so the provision of the dwelling would be regarded as publicly funded.
- (3) Condition 2 is that the dwelling was provided wholly or partly by using sums in the disposal proceeds fund of—
- (a) a <sup>F164</sup>private registered provider], or
  - (b) a registered social landlord.
- (4) Condition 3 is that —
- (a) the dwelling was acquired by a <sup>F165</sup>private registered provider], or a registered social landlord, on a disposal by a public sector landlord,
  - (b) the disposal was made on or after 1st April 1997, and
  - (c) at the time of the disposal the dwelling was capable of being let as a separate dwelling.
- (5) Condition 3 is not satisfied if the dwelling was acquired in pursuance of a contract made, or option created, before 1st April 1997.
- (6) Condition 4 is that—
- (a) the dwelling was provided wholly or partly by means of a grant under section 18 or 27A of the Housing Act 1996 (c. 52), and
  - (b) when the grant was made the recipient was notified under section 16(4) of that Act that the dwelling was to be regarded as funded by means of such a grant.

#### Textual Amendments

**F164** Words in s. 181(3)(a) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 44\(a\)](#)

**F165** Words in s. 181(4)(a) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 44\(b\)](#)

#### Commencement Information

**I136** S. 181 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 182 Interpretation: “remained in the social rented sector” **E+W**

- (1) This section applies for the purposes of determining whether a dwelling has remained in the social rented sector.
- (2) A dwelling shall be treated as having remained in the social rented sector for any period during which—
- (a) the freeholder was a person within subsection (3), and
  - (b) each leaseholder was either a person within that subsection or an individual holding otherwise than under a long tenancy.
- (3) A person is within this subsection if the person is—
- (a) a <sup>F166</sup>private registered provider],
  - (b) a registered social landlord, or

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- (c) a public sector landlord.
- (4) A dwelling provided wholly or partly by means of a grant under section 27A of the Housing Act 1996 shall also be treated as having remained in the social rented sector for any period during which it was used exclusively for permitted purposes by—
  - (a) the recipient of the grant, or
  - (b) any person treated as the recipient by virtue of section 27B of that Act.
- (5) “Permitted purposes” are purposes for which the grant was made and any other purposes agreed by the Housing Corporation or the HCA.
- (6) Where a lease of a dwelling has been granted to a former freeholder in pursuance of paragraph 3 of Schedule 9 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) (mandatory leaseback to former freeholder on collective enfranchisement) the reference in subsection (1)(a) above to the freeholder shall be construed as a reference to the leaseholder under that lease.

#### Textual Amendments

**F166** Words in s. 182(3)(a) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 45](#)

#### Commencement Information

**I137** S. 182 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 183 Interpretation: other expressions E+W

- (1) The definitions in this section apply to sections 180 to 182.
- (2) The HCA gives “assistance” to a person if it—
  - (a) transfers housing or other land to the person,
  - (b) provides infrastructure to the person, or
  - (c) gives financial assistance to the person,
 and for this purpose “infrastructure” has the same meaning as in Part 1.
- (3) References to a “registered social landlord” are to a body which, at the time to which the reference relates, was a registered social landlord within the meaning of Part 1 of the Housing Act 1996 (c. 52) as it then had effect.
- (4) “Leaseholder” does not include a mortgagee.
- (5) “Long tenancy” has the same meaning as in Part V of the Housing Act 1985 (c. 68).
- (6) A person provides a dwelling if the person—
  - (a) acquires, constructs, converts, improves or repairs housing or other land for use as a dwelling, or
  - (b) ensures such acquisition, construction, conversion, improvement or repair by another.
- (7) “Public sector landlord” means anyone falling within section 80(1) of the Housing Act 1985.

*Status: Point in time view as at 01/04/2015.*

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#### Commencement Information

**I138** S. 183 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 184 Right to acquire: supplemental **E+W**

- (1) Section 17 of the Housing Act 1996 (right to acquire: supplemental) applies in relation to the right to acquire under section 180 of this Act with the modifications set out below.
- (2) The modifications are as follows—
  - (a) references to the right to acquire under section 16 of the 1996 Act shall be treated as references to the right to acquire under section 180 of this Act,
  - (b) references to the Welsh Ministers shall be treated as references to the Secretary of State,
  - (c) the reference to registered social landlords shall be treated as a reference to [<sup>F167</sup>private registered providers], and
  - (d) the reference to a resolution of the National Assembly for Wales shall be treated as a reference to a resolution of either House of Parliament.

#### Textual Amendments

**F167** Words in s. 184(2)(c) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), [art. 1\(2\)](#), [Sch. 1 para. 46](#)

#### Commencement Information

**I139** S. 184 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 185 Right to acquire: consequential amendments **E+W**

- (1) In section 16 of the Housing Act 1996 (right to acquire)—
  - (a) for subsection (1) substitute—

“(1) The tenant of a dwelling in Wales has a right to acquire the dwelling if—

    - (a) the landlord is a registered social landlord or a registered provider of social housing,
    - (b) the tenancy is—
      - (i) an assured tenancy, other than an assured shorthold tenancy or a long tenancy, or
      - (ii) a secure tenancy,
    - (c) the dwelling was provided with public money and has remained in the social rented sector, and
    - (d) the tenant satisfies any further qualifying conditions applicable under Part V of the Housing Act 1985 (the right to buy) as it applies in relation to the right conferred by this section.”,
  - (b) in subsection (2)(c) after “registered social landlord” insert “ or a registered provider of social housing ”, and



*Status: Point in time view as at 01/04/2015.*

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- (c) in subsection (3)(a) and (b)(ii) after “registered social landlord” insert “, a registered provider of social housing”.
- (2) In section 16A(1) (extension of section 16 to dwellings funded by grants under section 27A) after the first “dwelling” insert “ in Wales ”.
- (3) In section 20 (purchase grant where right to acquire exercised)—
  - (a) in subsection (1) after “landlords” insert “ and registered providers of social housing ”, and
  - (b) in subsection (4) after “landlord” insert “ or registered provider of social housing ”.
- (4) In section 21 (purchase grant in respect of other disposals)—
  - (a) in subsection (1)—
    - (i) after “landlords” insert “ and registered providers of social housing ”, and
    - (ii) after “dwellings” insert “ in Wales ”,
  - (b) in subsection (2)—
    - (i) after “section 16” insert “ or by section 180 of the Housing and Regeneration Act 2008 ”, and
    - (ii) for “landlord’s” substitute “ landlord or provider (as the case may be) ”, and
  - (c) in subsection (4) after “landlord” insert “ or registered provider of social housing ”.

#### Commencement Information

**I140** S. 185 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

#### *Miscellaneous*

### 186 Former registered providers E+W

Where a person ceases to be a [<sup>F168</sup>private registered provider], sections 171 to 175 continue to apply in respect of any property owned by the person at any time when it was registered.

#### Textual Amendments

**F168** Words in s. 186 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), [art. 1\(2\)](#), [Sch. 1 para. 47](#)

#### Commencement Information

**I141** S. 186 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 187 Change of use, etc. E+W

- (1) Where the regulator's consent is required for the disposal of a dwelling by [<sup>F169</sup>a private registered provider], sections 172 to 175 continue to apply in relation to a disposal of the land by the registered provider even if the land has ceased to be a dwelling.



*Status: Point in time view as at 01/04/2015.*

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- (2) Sections 172 to 175 also apply in relation to a disposal of land by [<sup>F170</sup>a private registered provider] which would fall within Exception 2 or 3 of section 173 but for a change of use of the land by the registered provider.

#### Textual Amendments

- F169** Words in s. 187(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 48**
- F170** Words in s. 187(2) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 48**

#### Commencement Information

- I142** S. 187 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

### 188 Trustees **E+W**

Section 39 of the Settled Land Act 1925 (c. 18) (disposal by trustees: best price etc.) shall not apply to the disposal of land by a [<sup>F171</sup>private registered provider].

#### Textual Amendments

- F171** Words in s. 188 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 49**

#### Commencement Information

- I143** S. 188 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

### 189 Charities **E+W**

Nothing in this Chapter authorises a charity to effect a disposal which it would not otherwise have power to effect.

#### Commencement Information

- I144** S. 189 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

#### *Consents under other legislation*

### 190 Consent to disposals under other legislation **E+W**

The Secretary of State's functions under the following provisions are transferred to the regulator in so far as they relate to disposals by [<sup>F172</sup>private registered providers]—

- (a) section 171D of the Housing Act 1985 (c. 68) (consent to certain disposals of housing subject to the preserved right to buy),
- (b) sections 81 and 133 of the Housing Act 1988 (c. 50) (consent to certain disposals of housing obtained from housing action trusts or local authorities), and

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- (c) section 173 of the Local Government and Housing Act 1989 (c. 42) (consent to certain disposals of housing obtained from new town corporations).

#### Textual Amendments

**F172** Words in s. 190 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 50**

#### Commencement Information

**I145** S. 190 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

### 191 Section 190: consequential amendments **E+W**

- (1) In section 171D of the Housing Act 1985 (consent to certain disposals of housing obtained subject to the preserved right to buy)—
- (a) in subsection (2) (consent) for “Secretary of State” substitute “ appropriate authority ”, and
  - (b) after that subsection insert—
 

“(2A) “The appropriate authority” means—

    - (a) in relation to a disposal of land in England by a registered provider of social housing, the Regulator of Social Housing,
    - (b) in relation to any other disposal of land in England, the Secretary of State, and
    - (c) in relation to a disposal of land in Wales, the Welsh Ministers.”
- (2) In section 81 of the Housing Act 1988 (consent to certain disposals of housing obtained from housing action trusts)—
- (a) in subsection (3) (consent) for “Secretary of State” substitute “ appropriate authority ”,
  - (b) after that subsection insert—
 

“(3A) In this section “the appropriate authority” means—

    - (a) in relation to a disposal of land in England by a registered provider of social housing, the Regulator of Social Housing,
    - (b) in relation to any other disposal of land in England, the Secretary of State, and
    - (c) in relation to a disposal of land in Wales, the Welsh Ministers.”,
  - (c) in subsection (5) (consultation of tenants) for “Secretary of State” substitute “ appropriate authority ”,
  - (d) in subsection (5)(a) for “himself” substitute “ itself ”, and
  - (e) omit subsection (6) (consultation of Housing Corporation).
- (3) In section 133 of that Act (consent to certain disposals of housing obtained from local authorities)—
- (a) in subsection (1) (consent) for “Secretary of State” substitute “ appropriate authority ”,
  - (b) after that subsection insert—

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- “(1ZA) In this section “the appropriate authority” means—
- (a) in relation to a disposal of land in England by a registered provider of social housing, the Regulator of Social Housing,
  - (b) in relation to any other disposal of land in England, the Secretary of State, and
  - (c) in relation to a disposal of land in Wales, the Welsh Ministers.”,
- (c) after subsection (1A) insert—
- “(1B) This section does not apply to a disposal of land by a registered provider of social housing unless the land is social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008.”,
- (d) in subsection (3)(c) (modification of certain provisions applied for the purposes of section 133) after “this section,” insert “ any reference to the appropriate national body shall be construed as a reference to the appropriate authority and ”,
  - (e) in subsection (5) (consultation of tenants) for “Secretary of State” substitute “ appropriate authority ”,
  - (f) in subsection (5)(a) for “himself” substitute “ itself ”, and
  - (g) omit subsection (6) (consultation of Housing Corporation).
- (4) In section 173 of the Local Government and Housing Act 1989 (c. 42) (consent to certain disposals of housing obtained from new town corporations)—
- (a) in subsection (1)(a) (consent) for “Secretary of State” substitute “ appropriate authority ”,
  - (b) after subsection (1) insert—
- “(1A) In this section “the appropriate authority” means—
- (a) in relation to a disposal of land in England by a registered provider of social housing, the Regulator of Social Housing,
  - (b) in relation to any other disposal of land in England, the Secretary of State, and
  - (c) in relation to a disposal of land in Wales, the Welsh Ministers.”,
- (c) in subsection (5) (consultation of tenants) for “Secretary of State” substitute “ appropriate authority ”,
  - (d) in subsection (5)(a) for “himself” substitute “ itself ”, and
  - (e) omit subsection (6) (consultation of Housing Corporation).

#### **Commencement Information**

**I146** S. 191 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

*Status: Point in time view as at 01/04/2015.*

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## CHAPTER 6 **E+W**

### REGULATORY POWERS

#### 192 Overview **E+W**

This Chapter—

- (a) allows the regulator to set standards for the provision of social housing (sections 193 to [<sup>F173</sup>198B]),
- (b) gives the regulator powers to monitor compliance (sections 199 to 210),
- (c) gives the regulator a degree of control over the governance of non-profit registered providers (sections 211 to 214),
- (d) requires the regulator to give guidance about [<sup>F174</sup>the submission of information and opinions] relating to registered providers and about the use of its powers under this Chapter and Chapter 7 (sections 215 and 216), and
- (e) allows the regulator to arrange for the accreditation of managers of social housing (section 217).

#### Textual Amendments

**F173** Word in s. 192(a) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 17 para. 3\(2\)](#); [S.I. 2012/628, art. 6\(i\)](#) (with [arts. 911141517](#))

**F174** Words in s. 192(d) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 17 para. 3\(3\)](#); [S.I. 2012/628, art. 6\(i\)](#) (with [arts. 911141517](#))

#### Commencement Information

**I147** S. 192 in force at 8.9.2008 by [S.I. 2008/2358, art. 3\(1\)](#)

### Standards

#### 193 [<sup>F175</sup>Standards relating to consumer matters] **E+W**

- (1) The regulator may set standards for registered providers as to the nature, extent and quality of accommodation, facilities or services provided by them in connection with social housing.
- (2) Standards under subsection (1) may, in particular, require registered providers to comply with specified rules about—
  - (a) criteria for allocating accommodation,
  - (b) terms of tenancies,
  - <sup>F176</sup>(c) .....
  - (d) maintenance,
  - (e) procedures for addressing complaints by tenants against landlords,
  - (f) methods for consulting and informing tenants,
  - (g) methods of enabling tenants to influence or control the management of their accommodation and environment,
  - <sup>F177</sup>(ga) methods of assisting tenants to exchange tenancies,]
  - (h) policies and procedures required by section 218A of the Housing Act 1996 (c. 52) in connection with anti-social behaviour,

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- (i) landlords' contribution to the environmental, social and economic well-being of the areas in which their property is situated, and
  - (j) estate management.
- (3) In setting standards the regulator shall have regard to the desirability of registered providers being free to choose how to provide services and conduct business.

#### Textual Amendments

- F175** S. 193 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 4\(2\)](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F176** S. 193(2)(c) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 4\(3\)](#), [Sch. 25 Pt. 27](#); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)
- F177** S. 193(2)(ga) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 176\(1\)](#), 240(2); S.I. 2012/57, art. 4(1)(s) (with arts. 6,7,9-11)

#### Commencement Information

- I148** S. 193 in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

### 194 <sup>F178</sup>Standards relating to economic matters] **E+W**

- (1) The regulator may set standards for <sup>F179</sup>private registered providers] in matters relating to <sup>F180</sup>... their financial and other affairs.
- <sup>F181</sup>(1A) Standards under subsection (1) may, in particular, require private registered providers to comply with specified rules about—
- (a) the management of their financial and other affairs, and
  - (b) their efficiency in carrying on their financial and other affairs.]
- (2) In respect of profit-making registered providers, standards may be made in relation to the management of their affairs only so far as relating to the provision of social housing.
- <sup>F182</sup>(2A) The regulator may set standards for registered providers requiring them to comply with specified rules about their levels of rent (and the rules may, in particular, include provision for minimum or maximum levels of rent or levels of increase or decrease of rent).]
- (3) In setting standards the regulator shall have regard to the desirability of registered providers being free to choose how to provide services and conduct business.

#### Textual Amendments

- F178** S. 194 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 5\(2\)](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F179** Words in s. 194(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 51](#)
- F180** Words in s. 194(1) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 5\(3\)](#), [Sch. 25 Pt. 27](#); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)
- F181** S. 194(1A) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 5\(4\)](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)

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**F182** S. 194(2A) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 5\(5\)](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)

**Commencement Information**

**I149** S. 194 in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

**195 Code of practice** E+W

- (1) The regulator may issue a code of practice which—
  - (a) relates to a matter addressed by a standard [<sup>F183</sup>under section 194], and
  - (b) amplifies the standard.
- (2) In considering whether standards [<sup>F184</sup>under that section] have been met the regulator may have regard to a code of practice.
- (3) The regulator may revise or withdraw a code of practice.
- (4) The regulator shall make arrangements for bringing a code of practice to the attention of registered providers.

**Textual Amendments**

**F183** Words in s. 195(1)(a) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 6\(2\)](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)

**F184** Words in s. 195(2) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 6\(3\)](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)

**Commencement Information**

**I150** S. 195 in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

**196 Consultation** E+W

- (1) Before setting standards, or issuing, revising or withdrawing a code of practice, the regulator shall consult the following or ensure that they have been consulted—
  - (a) one or more bodies appearing to it to represent the interests of registered providers,
  - (b) one or more bodies appearing to it to represent the interests of secured creditors of registered providers,
  - [<sup>F185</sup>(ba) any body for the time being nominated under section 278A,]
  - (c) one or more [<sup>F186</sup>other] bodies appearing to it to represent the interests of tenants of social housing,
  - [<sup>F187</sup>(d) .....
  - (e) one or more bodies appearing to it to represent the interests of local housing authorities,
  - [<sup>F188</sup>(ea) the Greater London Authority,]
  - [<sup>F189</sup>(f) ....., and
  - (g) the Secretary of State.

*Status: Point in time view as at 01/04/2015.*

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- (2) Before setting a standard which would apply to charities, or issuing, revising or withdrawing a code of practice which applies or would apply to charities, the regulator must consult the Charity Commission.

#### Textual Amendments

- F185** S. 196(1)(ba) inserted (12.11.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), [ss. 26\(4\)\(a\)](#), 148(1)(c)
- F186** Word in s. 196(1)(c) inserted (12.11.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), [ss. 26\(4\)\(b\)](#), 148(1)(c)
- F187** S. 196(1)(d) omitted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 12 para. 92](#); [S.I. 2015/841](#), [art. 3\(x\)](#)
- F188** S. 196(1)(ea) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 55](#); [S.I. 2012/628](#), [art. 6\(i\)](#) (with arts. 911141517)
- F189** S. 196(1)(f) (but not the word "and" at the end of that paragraph) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 42](#), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), [art. 6\(i\)\(j\)](#) (with arts. 911141517)

#### Commencement Information

- I151** S. 196 in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#) (with [art. 3\(3\)\(4\)](#))

### 197 Direction by Secretary of State **E+W**

- (1) The Secretary of State may direct the regulator—
- to set a standard under section 193 [<sup>F190</sup>or 194],
  - about the content of standards under section 193 [<sup>F191</sup>or 194], or
  - to have regard to specified objectives when setting standards under section 193 or 194.
- (2) The Secretary of State may give a direction under subsection (1)(a) or (b) only if it relates, in the Secretary of State's opinion, to—
- quality of accommodation,
  - [<sup>F192</sup>(aa) tenure,]
  - rent, [<sup>F193</sup> ...
  - involvement by tenants in the management by registered providers of accommodation [<sup>F194</sup>, or
  - methods of assisting tenants to exchange tenancies.]
- (3) In deciding whether to give a direction the Secretary of State shall, in particular, have regard to the regulator's fundamental objectives.
- (4) Before giving a direction the Secretary of State must consult—
- the regulator,
  - [<sup>F195</sup>(aa) the Greater London Authority,]
  - [<sup>F196</sup>(b) . . . . .
  - [<sup>F197</sup>(c) . . . . .
  - one or more bodies appearing to the Secretary of State to represent the interests of local housing authorities,
  - [<sup>F198</sup>(da) any body for the time being nominated under section 278A,]



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- (e) one or more<sup>F199</sup>other ] bodies appearing to the Secretary of State to represent the interests of tenants of social housing, and
  - (f) one or more bodies appearing to the Secretary of State to represent the interests of registered providers.
- (5) Before giving a direction about a standard which would apply to charities the Secretary of State must consult the Charity Commission.
- (6) A direction may disapply the requirement to consult under section 196 in relation to specified matters.
- (7) The regulator shall comply with any direction.
- (8) The Secretary of State shall publish—
- (a) each proposed direction that is the subject of a consultation,
  - (b) each response to a consultation, and
  - (c) each direction.

#### Textual Amendments

- F190** Words in s. 197(1)(a) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 17 para. 7](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F191** Words in s. 197(1)(b) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 17 para. 7](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F192** S. 197(2)(aa) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\), ss. 152, 240\(2\)](#); S.I. 2012/57, art. 4(1)(n) (with arts. 6, 7, 9-11)
- F193** Word in s. 197(2)(b) repealed (15.1.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 25 Pt. 25](#); S.I. 2012/57, art. 4(1)(ee)(iv)
- F194** S. 197(2)(d) and word inserted (15.1.2012) by [Localism Act 2011 \(c. 20\), ss. 176\(2\), 240\(2\)](#); S.I. 2012/57, art. 4(1)(s) (with arts. 6, 7, 9-11)
- F195** S. 197(4)(aa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 19 para. 56](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F196** S. 197(4)(b) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 16 para. 43, Sch. 25 Pt. 26](#); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)
- F197** S. 197(4)(c) omitted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\), s. 49\(1\), Sch. 12 para. 93](#); S.I. 2015/841, art. 3(x)
- F198** S. 197(4)(da) inserted (12.11.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\), ss. 26\(5\)\(a\), 148\(1\)\(c\)](#)
- F199** Word in s. 197(4)(e) inserted (12.11.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\), ss. 26\(5\)\(b\), 148\(1\)\(c\)](#)

#### Commencement Information

- I152** S. 197 in force at 8.9.2008 by [S.I. 2008/2358, art. 3\(1\)](#) (with art. 3(3)(4))

## 198 Supplemental E+W

<sup>F200</sup>(1) .....

- (2) The regulator shall make arrangements for bringing standards to the attention of registered providers.
- (3) The regulator may revise or withdraw standards; and section 196 applies to revising or withdrawing standards as to setting standards.



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- (4) Standards may be expressed by reference to documents prepared by others.
- (5) Standards—
- (a) may make provision generally or only in relation to specified cases, circumstances or areas, and
  - (b) may make different provision for different cases, circumstances or areas.

#### Textual Amendments

**F200** S. 198(1) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 17 para. 8, **Sch. 25 Pt. 27**; [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)

#### Commencement Information

**I153** S. 198(2)-(5) in force at 8.9.2008 by [S.I. 2008/2358](#), **art. 3(1)**

### **[<sup>F201</sup>198A] Failure to meet standard under section 193** **E+W**

- (1) Failure by a registered provider to meet a standard under section 193 (standards relating to consumers matters) is a ground for exercising a power in this Chapter or Chapter 7.
- (2) But a power to which this subsection applies may be exercised on that ground only if the regulator thinks there are reasonable grounds to suspect that—
  - (a) the failure has resulted in a serious detriment to the registered provider's tenants or potential tenants, or
  - (b) there is a significant risk that, if no action is taken by the regulator, the failure will result in a serious detriment to the registered provider's tenants or potential tenants.
- (3) Subsection (2) applies to the powers conferred by any of the following—
  - (a) section 199 (surveys);
  - (b) section 201 (inspections);
  - (c) section 206 (inquiries);
  - (d) section 220 (enforcement notices);
  - (e) section 227 (penalties);
  - (f) section 237 (compensation);
  - (g) section 247 (management tender);
  - (h) section 251 (appointment of manager).
- (4) The risk that, if no action is taken by a registered provider or the regulator, the registered provider will fail to meet a standard under section 193 is a ground for exercising a power in this Chapter.
- (5) But a power in this Chapter may be exercised on that ground only if the regulator thinks there are reasonable grounds to suspect that, if the failure occurs—
  - (a) the failure will result in a serious detriment to the registered provider's tenants or potential tenants, or
  - (b) there will be a significant risk that, if no action is taken by the regulator, the failure will result in a serious detriment to the registered provider's tenants or potential tenants.

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- (6) In considering whether to exercise a power within subsection (1) or (4) on the ground mentioned in that subsection, the regulator must have regard to any information it has received from any of the following—
- (a) the Commission for Local Administration in England;
  - (b) a housing ombudsman appointed in accordance with a scheme approved under Schedule 2 to the Housing Act 1996;
  - (c) any body appearing to the regulator to represent the interests of tenants of social housing in England;
  - (d) a county council in England, a district council, a London borough council, the Common Council of the City of London in its capacity as a local authority, the Council of the Isles of Scilly or a parish council;
  - (e) a member of any of the bodies listed in paragraph (d);
  - (f) the Greater London Authority;
  - (g) a Member of Parliament;
  - (h) a fire and rescue authority under the Fire and Rescue Services Act 2004;
  - (i) the Health and Safety Executive;
  - (j) the Secretary of State.

#### Textual Amendments

**F201** Ss. 198A, 198B inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 9](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)

### 198B Failure to meet standard under section 194 **E+W**

- (1) Failure by a registered provider to meet a standard under section 194 (standards relating to economic matters) is a ground for exercising a power in this Chapter or Chapter 7 (if the power is otherwise exercisable in relation to a registered provider of that kind).
- (2) The risk that, if no action is taken by a registered provider or the regulator, the registered provider will fail to meet a standard under section 194 is a ground for exercising a power in this Chapter.]

#### Textual Amendments

**F201** Ss. 198A, 198B inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 9](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)

### Monitoring

### 199 Survey **E+W**

- (1) This section applies where the regulator suspects that a registered provider may be failing to maintain premises in accordance with standards under section 193.
- (2) The regulator may arrange for a survey of the condition of the premises by an authorised person.

*Status: Point in time view as at 01/04/2015.*

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- (3) In subsection (2) “authorised person” means a member of the regulator's staff, or another person, authorised in writing by the regulator for the purposes of this section.
- (4) An authorised person may enter the premises at any reasonable time and carry out the survey.
- (5) Before carrying out the survey an authorised person must give the registered provider at least 28 days' notice.
- (6) A registered provider who receives notice of a survey must give each occupier of the premises at least 7 days' notice.
- (7) After carrying out a survey an authorised person must produce a written report.
- (8) The regulator must give the registered provider a copy of the report.

#### Commencement Information

**I154** S. 199 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 200 Survey: supplemental **E+W**

- (1) An authorised person carrying out a survey, or seeking to enter premises in order to carry out a survey, must produce a copy of the authorisation on request by an occupier.
- (2) The regulator may require the registered provider to pay some or all of the costs of the survey and report.
- (3) A registered provider who fails without reasonable excuse to comply with section 199(6) commits an offence.
- (4) A registered provider, or an officer of a registered provider, who obstructs an authorised person in exercising a power under section 199 commits an offence.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) Proceedings for an offence under this section may be brought only by or with the consent of—
  - (a) the regulator, or
  - (b) the Director of Public Prosecutions.

#### Commencement Information

**I155** S. 200 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 201 Inspections **E+W**

- (1) The regulator may arrange for a person to inspect—
  - (a) a registered provider's performance of its functions in relation to the provision of social housing, or
  - (b) the financial or other affairs of a registered provider.

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- [<sup>F202</sup>(2) The person may be a member of the regulator's staff if the Secretary of State consents.  
 (2A) Consent under subsection (2) may be general or specific.]
- <sup>F203</sup>(3) . . . . .
- (4) The regulator may direct a person carrying out an inspection to discontinue it.
- (5) An inspection may be general or specific.
- <sup>F204</sup>(6) . . . . .
- [<sup>F205</sup>(7) Arrangements for a person other than a member of the regulator's staff to carry out an inspection may include provision about payments.]
- <sup>F206</sup>(7A) . . . . .
- <sup>F207</sup>(8) . . . . .

#### Textual Amendments

- F202** S. 201(2)(2A) substituted for s. 201(2) (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 10\(2\)](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F203** S. 201(3) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 10\(3\)](#), [Sch. 25 Pt. 27](#); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)
- F204** S. 201(6) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 10\(4\)](#), [Sch. 25 Pt. 27](#); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)
- F205** S. 201(7) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 10\(5\)](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F206** S. 201(7A) omitted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 12 para. 94](#); S.I. 2015/841, [art. 3\(x\)](#)
- F207** S. 201(8) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 10\(7\)](#), [Sch. 25 Pt. 27](#); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

#### Commencement Information

- I156** S. 201 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

## 202 Inspections: supplemental E+W

- (1) After carrying out an inspection under section 201 the person carrying out the inspection must produce a written report.
- (2) The regulator—
  - (a) must give the registered provider a copy of the report, and
  - (b) may publish the report and related information.
- (3) The person who carried out the inspection may publish the report and related information (whether or not the regulator has done so).
- (4) The Secretary of State may by order authorise the regulator to charge fees for inspections.
- (5) An inspected registered provider must pay any fee charged.
- (6) Before making an order the Secretary of State shall consult—

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- (a) the regulator,
  - (b) one or more bodies appearing to the Secretary of State to represent the interests of registered providers,
  - <sup>F208</sup>(c) ..., and
  - (d) such other persons as the Secretary of State thinks appropriate.
- (7) The regulator shall prescribe a scale of fees for inspections, having consulted—
- (a) the Secretary of State,<sup>F209</sup> and]
  - (b) one or more bodies appearing to the regulator to represent the interests of registered providers,<sup>F210</sup> ...
  - <sup>F210</sup>(c) .....
- [<sup>F211</sup>(8) The functions of billing for and receiving the payment of fees under this section are exercisable by the HCA rather than by the HCA acting through its Regulation Committee.]

#### Textual Amendments

- F208** S. 202(6)(c) (but not the "and" at the end of the paragraph) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 11\(2\)](#), [Sch. 25 Pt. 27](#); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)
- F209** Word in s. 202(7)(a) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 11\(3\)\(a\)](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F210** S. 202(7)(c) and preceding word repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 11\(3\)\(b\)](#), [Sch. 25 Pt. 27](#); S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)
- F211** S. 202(8) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 44](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)

#### Commencement Information

- I157** S. 202(1)-(3) (5) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))
- I158** S. 202(4)(6)(7) in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)
- I159** S. 202(4)(6)(7) in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 203 Inspector's powers **E+W**

- (1) An inspector may by notice require a person to provide specified documents or information.
- (2) The power under subsection (1) may be exercised only in relation to documents and information of a kind in respect of which the regulator can impose a requirement under section 107.
- (3) Sections 107(3) to (7) and 108 apply for the purposes of subsection (1) (with any necessary modifications).
- (4) An inspector may at any reasonable time—
  - (a) enter premises occupied by the registered provider which is being inspected, and
  - (b) inspect, copy or take away documents found there.
- (5) The reference to documents found on premises includes—
  - (a) documents stored on computers or electronic storage devices on the premises, and

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- (b) documents stored elsewhere which can be accessed by computers on the premises.
- (6) The power to inspect documents includes the power to inspect any computer or electronic storage device on which they have been created or stored.
- (7) An inspector may require any person on the premises to provide such facilities or assistance as the inspector reasonably requests.
- (8) For the purposes of subsections (5) and (6) an inspector may require any person having charge of a computer to provide such assistance as the inspector reasonably requests.
- (9) It is an offence for a person without reasonable excuse to obstruct an inspector exercising the powers conferred by subsections (4) to (8).
- (10) A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (11) Proceedings for an offence may be brought only by or with the consent of—
- (a) the regulator, or
  - (b) the Director of Public Prosecutions.
- [<sup>F212</sup>(12) In this section “ inspector ” means a person authorised in writing by the regulator to exercise the powers under this section for the purposes of an inspection under section 201. ]

#### Textual Amendments

**F212** S. 203(12) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 12](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)

#### Commencement Information

**I160** S. 203 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### <sup>F213</sup>204 Performance information **E+W**

#### Textual Amendments

**F213** S. 204 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 13](#), [Sch. 25 Pt. 27](#); [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)

### <sup>F214</sup>205 Publication of performance information **E+W**

#### Textual Amendments

**F214** S. 205 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 14](#), [Sch. 25 Pt. 27](#); [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)

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## 206 Inquiry **E+W**

- (1) If the regulator suspects that the affairs of a registered provider may have been mismanaged, the regulator may hold an inquiry.
- (2) The regulator shall appoint one or more individuals to conduct the inquiry.
- (3) An individual is eligible for appointment only if the individual is independent of the regulator.
- (4) Individuals are independent of the regulator if they and the members of their family—
  - (a) are not members, employees or consultants of the regulator, and
  - (b) have not been members or employees of the regulator within the previous five years.
- (5) “Consultant” means an individual providing services to the regulator otherwise than by virtue of employment with the regulator or an appointment under this section.

### Commencement Information

**I161** S. 206 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 207 Inquiry: supplemental **E+W**

- (1) The individual or individuals conducting an inquiry (“the inquirer”) shall determine its procedure.
- [<sup>F215</sup>(2) The inquirer may consider the affairs of the following categories of registered provider only so far as relating to social housing—
  - (a) profit-making organisations;
  - (b) local authorities.]
- (3) The inquirer may consider affairs of a body which at the material time was a subsidiary or associate of the registered provider.
- (4) The inquirer may make interim reports.
- (5) The inquirer shall make a final report on matters specified by the regulator.
- (6) The regulator may arrange for the publication of all or part of an interim or final report.
- (7) A local authority may contribute to the regulator's expenses in connection with an inquiry.

### Textual Amendments

**F215** S. 207(2) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), [art. 1\(2\)](#), [Sch. 1 para. 53](#)

### Commencement Information

**I162** S. 207 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))



*Status: Point in time view as at 01/04/2015.*

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## 208 Inquiry: evidence **E+W**

- (1) The inquirer may by notice require a person to provide specified documents or information.
- (2) The notice may, in particular, require evidence to be given on oath (and the inquirer may administer oaths for that purpose).
- (3) The power under subsection (1) may be exercised only in relation to documents and information of a kind in respect of which the regulator can impose a requirement under section 107.
- (4) Sections 107(3) to (7) and 108 apply for the purposes of this section (with any necessary modifications).

### Commencement Information

**I163** S. 208 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 209 Inquiry: charities **E+W**

- (1) An inquiry may be held in relation to a registered charity only if it has received public assistance.
- (2) An inquiry in relation to a registered charity may only relate to its activities relating to housing.
- (3) If an inquiry is held in relation to a registered charity the regulator shall notify the Charity Commission.

### Commencement Information

**I164** S. 209 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 210 Extraordinary audit **E+W**

- (1) Where an inquiry in respect of [<sup>F216</sup>a private registered provider] is being held, or has been held, under section 206, the regulator may require the registered provider to allow its accounts and balance sheet to be audited by a qualified auditor appointed by the regulator.
- (2) “Qualified auditor” means a person eligible for appointment as auditor of the registered provider's ordinary accounts.
- (3) On completion of the audit, the auditor shall report to the regulator about such matters and in such form as the regulator determines.
- (4) The revenue accounts of a registered charity may be audited under this section only insofar as they relate to its housing activities.
- (5) The registered provider shall pay the costs of the audit (including the auditor's remuneration).



*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F216** Words in s. 210(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 54**

#### Commencement Information

**I165** S. 210 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### [<sup>F217</sup>**210A** Extraordinary [<sup>F218</sup>audit]: local authorities **E+W**]

(1) Where an inquiry in respect of a local authority is being held, or has been held, under section 206, [<sup>F219</sup>the regulator may require the local authority to allow its accounts, so far as they relate to the provision of social housing, to be audited by a local auditor appointed by the regulator.]

[ The regulator may not appoint a local auditor to audit the accounts of a local authority <sup>F220</sup>(1A) if that person—

- (a) is the person (or one of the persons) appointed under or by virtue of the Local Audit and Accountability Act 2014 to audit the authority's accounts, or
- (b) was the person (or one of the persons) who carried out the most recent completed audit of the authority's accounts under or by virtue of that Act.

(1B) Sections 20(1), (2), (5) and (6), 22 and 23 of the Local Audit and Accountability Act 2014 (local auditors' general duties and right to documents etc) apply in relation to an audit under this section as they apply in relation to an audit of the local authority under or by virtue of that Act.

(1C) On completion of the audit under this section, the local auditor must report to the regulator about such matters and in such form as the regulator determines.]

<sup>F221</sup>(2) .....

<sup>F221</sup>(3) .....

(4) The local authority shall pay the [<sup>F222</sup>costs of the audit (including the local auditor's remuneration)].

[<sup>F223</sup>(5) In this section—

“accounts” has the meaning given by section 4 of the Local Audit and Accountability Act 2014;

“local auditor” means a person who is eligible for appointment under or by virtue of the Local Audit and Accountability Act 2014 as an auditor of the local authority's accounts.]]

#### Textual Amendments

**F217** S. 210A inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 55**

**F218** Word in s. 210A heading substituted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), **Sch. 12 para. 95(7)**; [S.I. 2015/841](#), **art. 3(x)** (with Sch. para. 2) (as amended (27.6.2016) by [S.I. 2016/675](#), **art. 2**)

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F219** Words in s. 210A(1) substituted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\), s. 49\(1\), Sch. 12 para. 95\(2\)](#); S.I. 2015/841, [art. 3\(x\)](#) (with Sch. para. 2) (as amended (27.6.2016) by S.I. 2016/675, [art. 2](#))
- F220** S. 210A(1A)-(1C) inserted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\), s. 49\(1\), Sch. 12 para. 95\(3\)](#); S.I. 2015/841, [art. 3\(x\)](#) (with Sch. para. 2) (as amended (27.6.2016) by S.I. 2016/675, [art. 2](#))
- F221** S. 210A(2)(3) repealed (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\), s. 49\(1\), Sch. 12 para. 95\(4\)](#); S.I. 2015/841, [art. 3\(x\)](#) (with Sch. para. 2) (as amended (27.6.2016) by S.I. 2016/675, [art. 2](#))
- F222** Words in s. 210A(4) substituted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\), s. 49\(1\), Sch. 12 para. 95\(5\)](#); S.I. 2015/841, [art. 3\(x\)](#) (with Sch. para. 2) (as amended (27.6.2016) by S.I. 2016/675, [art. 2](#))
- F223** S. 210A(5) substituted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\), s. 49\(1\), Sch. 12 para. 95\(6\)](#); S.I. 2015/841, [art. 3\(x\)](#) (with Sch. para. 2) (as amended (27.6.2016) by S.I. 2016/675, [art. 2](#))

### *Management and constitution*

#### **211 Non-profit providers only** E+W

This group of sections applies only to non-profit registered providers.

#### **Commencement Information**

**I166** S. 211 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with Sch.)

#### **212** [<sup>F73</sup>**Registered society**]: **change of rules** E+W

- (1) This section applies to [<sup>F5</sup>a registered society].
- (2) An amendment of the society's rules requires consent if it—
  - (a) alters the society's objects,
  - (b) makes provision about the distribution of assets to members, or
  - (c) enables the society to become, or cease to be, a subsidiary or associate of another body.
- (3) An amendment of the rules which requires consent is effective only if the regulator has first consented.
- (4) The regulator may not consent to an amendment which it thinks would turn the society into a profit-making organisation.
- (5) The society must notify the regulator of an amendment of the rules which does not require consent.
- (6) In relation to an amendment which requires consent the requirement in [<sup>F224</sup>section 16(2) of the Co-operative and Community Benefit Societies Act 2014] (sending copies of amendment of rules to [<sup>F225</sup>Financial Conduct Authority]) is satisfied only if the copies are accompanied by a copy of the regulator's consent.
- (7) The preceding provisions of this section shall be treated as if they formed part of that Act as well as of this Act.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(8 The Secretary of State may by order amend the list in subsection (2).

#### 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. 122](#) (with [Sch. 5](#))
- F73** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 123](#) (with [Sch. 5](#))
- F224** Words in s. 212(6) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 132](#) (with [Sch. 5](#))
- F225** Words in s. 212(6) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 11 para. 8\(4\)](#) (with [Sch. 12](#))

#### Commencement Information

- I167** S. 212(1)(3)-(7) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))
- I168** S. 212(2)(8) in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

### 213 Charity: change of objects **E+W**

- (1) This section applies to a registered charity which is not a registered company.
- (2) An amendment of the charity's objects is effective only if the Charity Commission has first consented.
- (3) Before giving consent the Charity Commission must consult the regulator.

#### Commencement Information

- I169** S. 213 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 214 Companies: change of articles **E+W**

- (1) This section applies to a registered company.
- (2) An amendment of the company's articles of association requires consent if it—
  - (a) alters the company's objects,
  - (b) makes provision about the distribution of assets to members, or
  - (c) enables the company to become, or cease to be, a subsidiary or associate of another body.
- (3) An amendment of the articles of association which requires consent is effective only if the regulator has first consented.
- (4) The regulator may not consent to an amendment which it thinks would turn the company into a profit-making organisation.
- (5) The company must notify the regulator—
  - (a) of an amendment of the articles of association which does not require consent, or
  - (b) of a change to its name or registered office.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (6) In relation to an amendment which requires consent the requirement in section 30 of the Companies Act 2006 (c. 46) (sending copy of resolution to registrar) is satisfied only if the copy is accompanied by a copy of the regulator's consent.
- (7) The Secretary of State may by order amend the list in subsection (2).

#### Commencement Information

- I170** S. 214(1) s. 214(3)-(6) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))
- I171** S. 214(2)(7) in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

### Guidance

#### 215 Use of intervention powers **E+W**

(1) The regulator shall publish—

- (a) guidance about [<sup>F226</sup>the submission of information] to the regulator about the performance of registered providers, and
- (b) guidance about how it uses and intends to use powers under this Chapter and Chapter 7.

(2) Guidance under subsection (1)(a) must, in particular, specify [<sup>F227</sup>how the regulator will deal with the submissions it receives.]

[<sup>F228</sup>(2A) Guidance under subsection (1)(b) must, in particular, specify how the regulator applies and intends to apply the tests in section 198A (use of certain powers in cases of failure or potential failure to comply with standards under section 193).]

(3) The regulator shall have regard to guidance under this section.

#### Textual Amendments

- F226** Words in s. 215(1)(a) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 15\(2\)](#); [S.I. 2012/628](#), [art. 6\(i\)](#) (with [arts. 911141517](#))
- F227** Words in s. 215(2) substituted for s. 215(2)(a)-(c) (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 15\(3\)](#); [S.I. 2012/628](#), [art. 6\(i\)](#) (with [arts. 911141517](#))
- F228** S. 215(2A) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 15\(4\)](#); [S.I. 2012/628](#), [art. 6\(i\)](#) (with [arts. 911141517](#))

#### Commencement Information

- I172** S. 215(1)(2) in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)
- I173** S. 215(3) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

#### 216 Consultation **E+W**

Before giving guidance under section 215 the regulator must consult—

- [<sup>F229</sup>(za) the Secretary of State,]
- (a) one or more bodies appearing to it to represent the interests of registered providers,
- [<sup>F230</sup>(aa) any body for the time being nominated under section 278A,]

*Status: Point in time view as at 01/04/2015.*

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- (b) one or more<sup>F231</sup>other] bodies appearing to it to represent the interests of tenants,
- <sup>F232</sup>(ba) the Greater London Authority,
- (c) one or more bodies appearing to it to represent the interests of local housing authorities,
- <sup>F233</sup>(d) .....
- <sup>F234</sup>(e) .....

#### Textual Amendments

- F229** S. 216(za) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 17 para. 16(a)**; S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F230** S. 216(aa) inserted (12.11.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 26(6)(a)**, 148(1)(c)
- F231** Word in s. 216(b) inserted (12.11.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 26(6)(b)**, 148(1)(c)
- F232** S. 216(ba) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 57**; S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F233** S. 216(d) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 17 para. 16(b)**, **Sch. 25 Pt. 27**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)
- F234** S. 216(e) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 16 para. 45**, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 911141517)

#### Commencement Information

- I174** S. 216 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)** (with art. 3(3)(4))

### *Managers of social housing*

#### 217 Accreditation **E+W**

- (1) The regulator may operate a scheme for the purpose of accrediting persons who provide services in connection with the management of social housing.
- (2) The regulator may approve a scheme operated by someone else for that purpose.
- (3) Approval may be withdrawn.
- (4) A scheme may include provision about—
  - (a) eligibility for accreditation;
  - (b) standards to be met by accredited persons (which may operate by reference to standards under section 193);
  - (c) monitoring compliance;
  - (d) complaints against accredited persons;
  - (e) renewal, suspension and withdrawal of accreditation.
- (5) Accreditation, or continued accreditation, may be conditional on the payment of fees.
- (6) Standards under section 193 may refer to accreditation under this section.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Commencement Information

**I175** S. 217 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## CHAPTER 7 **E+W**

### ENFORCEMENT POWERS

#### *General*

### **218** Exercise of enforcement powers **E+W**

- (1) [<sup>F235</sup>Subsection (2)] 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;
  - <sup>F236</sup>(b) .....
  - <sup>F236</sup>(c) .....
  - (d) the speed with which the failure or other problem needs to be addressed.
- [<sup>F237</sup>(3) Subsection (4) applies where the regulator is making a decision in relation to—
- (a) the exercise, on a ground other than one specified in section 198A(1) (failure to meet standard under section 193), of a power under this Chapter that is listed in section 198A(3), or
  - (b) the exercise of a power under this Chapter that is not listed in section 198A(3).
- (4) The regulator shall consider—
- (a) whether the failure or other problem concerned is serious or trivial;
  - (b) whether the failure or other problem is a recurrent or isolated incident.]

### Textual Amendments

- F235** Words in s. 218(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 17\(2\)](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)
- F236** S. 218(2)(b)(c) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 17\(3\)](#), [Sch. 25 Pt. 27](#); [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F237** S. 218(3)(4) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 17 para. 17\(4\)](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)

### Commencement Information

**I176** S. 218 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Enforcement notice

## 219 Overview **E+W**

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

### Commencement Information

**I177** S. 219 in force at 1.4.2010 by **S.I. 2010/862, art. 2** (with **Sch.**)

## 220 Grounds for giving notice **E+W**

- (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 [<sup>F238</sup>applicable to it] 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 [<sup>F239</sup>the registered provider is a private registered provider and its assets] require protection.
- (8) Case 7 is where the registered provider has given an undertaking under section 125 and failed to comply with it.
- [<sup>F240</sup>(9) Case 8 is where the registered provider has failed to pay—
  - (a) in the case of a private registered provider, an annual fee under section 117(1)(b);
  - (b) in the case of a local authority, an initial fee or an annual fee under section 117(1)(a) or (b).]
- (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,



*Status: Point in time view as at 01/04/2015.*

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- (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.

#### Textual Amendments

- F238** Words in s. 220(2) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 56(2)**
- F239** Words in s. 220(7) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 56(3)**
- F240** S. 220(9) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 56(4)**

#### Commencement Information

- I178** S. 220 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

## 221 Content E+W

- (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.

#### Commencement Information

- I179** S. 221 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

## <sup>[F241]</sup> 222 Notifying HCA etc E+W

If the regulator gives an enforcement notice it must send a copy—

- <sup>F242</sup>(a) . . . . .
- <sup>[F243]</sup>(aa) in the case of an enforcement notice given to a registered provider who owns land in Greater London, the Greater London Authority, and]
- (b) in the case of an enforcement notice given to a local authority, to the Secretary of State.]

#### Textual Amendments

- F241** S. 222 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 57**
- F242** S. 222(a) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 46, **Sch. 25 Pt. 26**; [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**F243** S. 222(aa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 58](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)

#### Commencement Information

**I180** S. 222 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

### 223 Appeal **E+W**

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

#### Commencement Information

**I181** S. 223 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

### 224 Withdrawal **E+W**

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

#### Commencement Information

**I182** S. 224 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

### 225 Sanction **E+W**

- (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.

#### Commencement Information

**I183** S. 225 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## Penalty

### 226 Overview **E+W**

This group of sections allows the regulator to penalise failures on the part of [<sup>F244</sup>private registered providers] by the imposition of fines.

#### Textual Amendments

**F244** Words in s. 226 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 58**

#### Commencement Information

**I184** S. 226 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

### 227 Grounds for imposition **E+W**

- (1) The regulator may require a [<sup>F245</sup>private 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.
- (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 [<sup>F246</sup>117(1)(b)].
- (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.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F245** Words in s. 227(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 59\(2\)](#)
- F246** Word in s. 227(6) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 59\(3\)](#)

#### Commencement Information

- I185** S. 227 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

## 228 Imposition **E+W**

- (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.

#### Commencement Information

- I186** S. 228(1)-(4) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)
- I187** S. 228(5) in force at 1.4.2009 for specified purposes by [S.I. 2009/803](#), [art. 7\(c\)](#)
- I188** S. 228(5) in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

## 229 Amount **E+W**

- (1) The amount of a penalty imposed on the ground specified in Case 6 of section 227 may not exceed the maximum amount [<sup>F247</sup>(if any)] 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).

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F247** Words in s. 229(1) inserted (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), [reg. 1\(1\)](#), [Sch. 5 para. 14](#) (with [reg. 5\(1\)](#))

#### Commencement Information

**I189** S. 229 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 230 Warning **E+W**

- (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—
  - <sup>F248</sup>(a) .....
  - <sup>F249</sup>(aa) the Greater London Authority (if the pre-penalty warning is given to a registered provider who owns land in Greater London), 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.

#### Textual Amendments

**F248** S. 230(2)(a) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 47](#), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), [art. 6\(i\)\(j\)](#) (with [arts. 911141517](#))

**F249** S. 230(2)(aa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 59](#); [S.I. 2012/628](#), [art. 6\(i\)](#) (with [arts. 911141517](#))

#### Commencement Information

**I190** S. 230 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 231 Representations **E+W**

- (1) A pre-penalty warning must specify a period during which the registered provider may make representations to the regulator.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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.

#### Commencement Information

**1191** S. 231 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

#### <sup>F250</sup>232 Notifying HCA **E+W**

.....

#### Textual Amendments

**F250** S. 232 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 48](#), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), [art. 6\(i\)\(j\)](#) (with [arts. 911141517](#))

#### [<sup>F251</sup>232A] Notifying the Greater London Authority **E+W**

If the regulator imposes a penalty on a registered provider who owns land in Greater London, it must send a copy of the penalty notice to the Greater London Authority.]

#### Textual Amendments

**F251** S. 232A inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 60](#); [S.I. 2012/628](#), [art. 6\(i\)](#) (with [arts. 911141517](#))

#### 233 Destination **E+W**

- (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.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I192** S. 233 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 234 Enforcement **E+W**

- (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.

#### Commencement Information

**I193** S. 234(1)(3)(5)(6) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

**I194** S. 234(2)(4) in force at 1.4.2009 for specified purposes by [S.I. 2009/803](#), [art. 7\(d\)](#)

**I195** S. 234(2)(4) in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 235 Appeal **E+W**

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.

#### Commencement Information

**I196** S. 235 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))



*Status: Point in time view as at 01/04/2015.*

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## Compensation

### 236 Overview **E+W**

This group of sections allows the regulator to award compensation to a victim of a failure on the part of a [<sup>F252</sup>private registered provider].

#### Textual Amendments

**F252** Words in s. 236 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 60**

#### Commencement Information

**I197** S. 236 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### 237 Grounds for award **E+W**

- (1) The regulator may require a [<sup>F253</sup>private 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.

#### Textual Amendments

**F253** Words in s. 237(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 61**

#### Commencement Information

**I198** S. 237 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### 238 Nature **E+W**

- (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.

*Status: Point in time view as at 01/04/2015.*

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#### Commencement Information

**I199** S. 238 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 239 Housing ombudsman compensation **E+W**

- (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.

<sup>F254</sup>(2) .....

#### Textual Amendments

**F254** S. 239(2) repealed (1.4.2013 for E.) by [Localism Act 2011 \(c. 20\)](#), ss. 180(2), 240(2), [Sch. 25 Pt. 28](#) (with [s. 180\(5\)](#)); [S.I. 2013/722](#), [art. 2\(b\)](#)

#### Commencement Information

**I200** S. 239 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 240 Award **E+W**

- (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.

#### Commencement Information

**I201** S. 240(1)-(4) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- I202** S. 240(5) in force at 1.4.2009 for specified purposes by [S.I. 2009/803, art. 7\(c\)](#)  
**I203** S. 240(5) in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862, art. 2](#) (with [Sch.](#))

## 241 Impact **E+W**

- (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.

### Commencement Information

- I204** S. 241 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with [Sch.](#))

## 242 Warning **E+W**

- (1) Before giving a compensation notice to a [<sup>F255</sup>private 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—
  - <sup>F256</sup>(a) .....
  - [<sup>F257</sup>(aa) the Greater London Authority (if the pre-compensation warning is given to a registered provider who owns land in Greater London), 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.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) A pre-compensation 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, awarding compensation.
- (6) A pre-compensation warning may be combined with notice under one or more of sections 230, 248, 250 and 252.

#### Textual Amendments

- F255** Words in s. 242(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 62**
- F256** S. 242(3)(a) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 16 para. 49, Sch. 25 Pt. 26**; [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F257** S. 242(3)(aa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 19 para. 61**; [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)

#### Commencement Information

- I205** S. 242 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

### 243 Representations E+W

- (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.

#### Commencement Information

- I206** S. 243 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

### 244 Enforcement E+W

- (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);

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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.

#### Commencement Information

**I207** S. 244(1)(3) in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with [Sch.](#))

**I208** S. 244(2)(4) in force at 1.4.2009 for specified purposes by [S.I. 2009/803, art. 7\(d\)](#)

**I209** S. 244(2)(4) in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862, art. 2](#) (with [Sch.](#))

#### 245 Appeal **E+W**

A [<sup>F258</sup>private 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.

#### Textual Amendments

**F258** Words in s. 245 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\), art. 1\(2\), Sch. 1 para. 63](#)

#### Commencement Information

**I210** S. 245 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with [Sch.](#))

*Management etc.*

#### 246 Overview **E+W**

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

#### Commencement Information

**I211** S. 246 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with [Sch.](#))

#### 247 Management tender **E+W**

- (1) This section applies if the regulator is satisfied that—
  - (a) a registered provider has failed to meet a standard [<sup>F259</sup>applicable to it] under section 193 or 194, or
  - (b) the affairs of a registered provider have been mismanaged in relation to social housing.

*Status: Point in time view as at 01/04/2015.*

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- (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 [<sup>F260</sup>(and consistent with any applicable procurement law)], 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).

**Textual Amendments**

**F259** Words in s. 247(1)(a) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 64(2)**

**F260** Words in s. 247(4)(b) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 64(3)**

**Commencement Information**

**I212** S. 247 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

**248 Section 247: supplemental** E+W

- (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—
  - <sup>F261</sup>(a) .....

*Status: Point in time view as at 01/04/2015.*

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- [<sup>F262</sup>(aa) the Greater London Authority (if the notice is given to a registered provider who owns land in Greater London),]
- [<sup>F263</sup>(b) the Secretary of State (if the notice is given to a local authority), and
- (c) any other persons the regulator thinks appropriate.]
- (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,
  - [<sup>F264</sup>(c) .....
  - [<sup>F265</sup>(ca) the Greater London Authority (if the notice is given to a registered provider who owns land in Greater London),]
  - [<sup>F266</sup>(d) the Secretary of State (if the registered provider is a local authority), and
  - (e) if the regulator thinks it appropriate, any relevant local housing authority.]
- [<sup>F267</sup>(8) If the regulator imposes a requirement it must send a copy—
  - [<sup>F268</sup>(a) .....
  - [<sup>F269</sup>(aa) in the case of a requirement imposed on a registered provider who owns land in Greater London, to the Greater London Authority, and]
  - (b) in the case of a requirement imposed on a local authority, to the Secretary of State.]
- (9) A registered provider may appeal to the High Court against a requirement under section 247(2).

#### Textual Amendments

- F261** S. 248(4)(a) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 50\(2\)](#), **Sch. 25 Pt. 26**; [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F262** S. 248(4)(aa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 19 para. 62(2)**; [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)
- F263** S. 248(4)(b)(c) substituted for s. 248(4)(b) (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 65(2)(b)**
- F264** S. 248(7)(c) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 50\(3\)](#), **Sch. 25 Pt. 26**; [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F265** S. 248(7)(ca) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 19 para. 62(3)**; [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)
- F266** S. 248(7)(d)(e) substituted for s. 248(7)(d) (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 65(3)(b)**
- F267** S. 248(8) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 65(4)**
- F268** S. 248(8)(a) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 50\(4\)](#), **Sch. 25 Pt. 26**; [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F269** S. 248(8)(aa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 19 para. 62(4)**; [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)



*Status: Point in time view as at 01/04/2015.*

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#### Commencement Information

**I213** S. 248 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 249 Management transfer **E+W**

- (1) This section applies if as a result of an inquiry under section 206 or an audit under section 210 [<sup>F270</sup>or 210A] 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).

#### Textual Amendments

**F270** Words in s. 249(1) inserted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 12 para. 96](#); [S.I. 2015/841](#), [art. 3\(x\)](#)

#### Commencement Information

**I214** S. 249 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 250 Section 249: supplemental **E+W**

- (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.

*Status: Point in time view as at 01/04/2015.*

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- (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—
  - <sup>F271</sup>(a) .....
  - <sup>F272</sup>(aa) in the case of a notice given to a registered provider who owns land in Greater London, the Greater London Authority,]
  - <sup>F273</sup>(b) in the case of a notice given to a local authority, the Secretary of State, and
  - (c) any other persons the regulator 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,
  - <sup>F274</sup>(c) .....
  - <sup>F275</sup>(ca) if the requirement would be imposed on a registered provider who owns land in Greater London, the Greater London Authority,]
  - <sup>F276</sup>(d) if the requirement would be imposed on a local authority, the Secretary of State, and
  - (e) if the regulator thinks it appropriate, any relevant local housing authority.]
- <sup>F277</sup>(8) If the regulator imposes a requirement it must send a copy—
  - <sup>F278</sup>(a) .....
  - <sup>F279</sup>(aa) in the case of a requirement imposed on a registered provider who owns land in Greater London, to the Greater London Authority, and]
  - (b) in the case of a requirement imposed on a local authority, to the Secretary of State.]
- (9) A registered provider may appeal to the High Court against a requirement under section 249(2).

#### Textual Amendments

**F271** S. 250(4)(a) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 51\(2\)](#), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)

**F272** S. 250(4)(aa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 63\(2\)](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)

*Status: Point in time view as at 01/04/2015.*

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- F273** S. 250(4)(b)(c) substituted for s. 250(4)(b) (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 66(2)(b)**
- F274** S. 250(7)(c) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 51(3), **Sch. 25 Pt. 26**; [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F275** S. 250(7)(ca) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 19 para. 63(3)**; [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)
- F276** S. 250(7)(d)(e) substituted for s. 250(7)(d) (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 66(3)(b)**
- F277** S. 250(8) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 66(4)**
- F278** S. 250(8)(a) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 16 para. 51(4), **Sch. 25 Pt. 26**; [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F279** S. 250(8)(aa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 19 para. 63(4)**; [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)

#### Commencement Information

- I215** S. 250 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

#### [<sup>F280</sup>250 Sections 247 and 249: local authorities **E+W**

- (1) This section makes further provision about the application of sections 247 and 249 in a case where the registered provider is a local authority.
- (2) The regulator may act under those sections even if the local authority already has a management agreement in place.
- (3) But while a section 247 or 249 arrangement is in force, the local authority may not give effect to a management agreement as respects functions of the authority which are the subject of the arrangement.
- (4) Any duty the local authority may have to consult with respect to the exercise of its management functions (for example, a duty arising by virtue of section 27BA of the Housing Act 1985) does not apply so far as it is acting pursuant to a requirement imposed on it under section 247 or 249.
- (5) A section 247 or 249 arrangement—
  - (a) is not to be considered a management agreement, but
  - (b) subsections (13) and (15) of section 27 of the Housing Act 1985 apply to it as they apply to a management agreement.
- (6) In this section—
 

“management agreement” has the meaning given by section 27(2)(a) and 27B(4) of the Housing Act 1985;

“section 247 or 249 arrangement” means an arrangement which is entered into pursuant to a requirement imposed on a local authority under section 247 or 249 and by which functions of the authority are to be exercised by a manager on its behalf.]

#### Textual Amendments

- F280** S. 250A inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 67**

*Status: Point in time view as at 01/04/2015.*

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## 251 Appointment of manager [<sup>F281</sup>of private registered provider] **E+W**

- (1) This section applies if the regulator is satisfied that—
  - (a) a [<sup>F282</sup>private registered provider] has failed to meet a standard under section 193 or 194, or
  - (b) the affairs of a [<sup>F283</sup>private 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—
  - (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).

### Textual Amendments

**F281** Words in s. 251(1)(b) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 68\(b\)](#)

**F282** Words in s. 251(1)(a) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 68\(a\)](#)

**F283** Words in s. 251(1)(b) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 68\(a\)](#)

### Commencement Information

**I216** S. 251 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 252 Section 251: supplemental **E+W**

- (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—

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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—
- <sup>F284</sup>(a) .....
  - <sup>F285</sup>(aa) the Greater London Authority (if the notice is given to a registered provider who owns land in Greater London), 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.
- <sup>F286</sup>(7) .....
- <sup>F287</sup>(7A) The regulator must notify the Greater London Authority of an appointment or requirement under section 251(2) in respect of a registered provider who owns land in Greater London.]
- (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 <sup>F288</sup>[private registered provider] may appeal to the High Court against an appointment or requirement under section 251(2).

#### Textual Amendments

- F284** S. 252(4)(a) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 52\(2\)](#), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F285** S. 252(4)(aa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 64\(2\)](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)
- F286** S. 252(7) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 52\(3\)](#), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F287** S. 252(7A) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 64\(3\)](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)
- F288** Words in s. 252(9) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 69](#)

#### Commencement Information

- I217** S. 252 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

#### <sup>F289</sup>252A Appointment of advisers to local authorities E+W

- (1) This section applies to a registered provider which is a local authority.
- (2) The power in subsection (3) is exercisable if the regulator thinks—

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- (a) that it is necessary to exercise it for the proper management of the authority's affairs so far as they relate to the provision of social housing (its "social housing affairs"), or
  - (b) that it is desirable to exercise it in the interests of securing better services for the authority's tenants.
- (3) The regulator may—
- (a) appoint one or more advisers to assist the authority in relation to its social housing affairs (or a particular aspect of those affairs), or
  - (b) require the authority to appoint one or more advisers for that purpose.
- (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 requirement under subsection (3)(b) may specify a process which the authority is required to implement for selecting and appointing advisers.
- (6) The authority must cooperate with any advisers appointed by virtue of this section.]

#### Textual Amendments

**F289** S. 252A inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 70**

### 253 **Transfer of land** <sup>F290</sup> **by private registered provider** **E+W**

- (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 <sup>F291</sup>private registered provider] have been mismanaged in relation to social housing, or
  - (b) a transfer of land by a <sup>F292</sup>private 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 <sup>F293</sup>private 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.



*Status: Point in time view as at 01/04/2015.*

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#### Textual Amendments

- F290** Words in s. 253 inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 71(c)**
- F291** Words in s. 253(1)(a) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 71(a)**
- F292** Words in s. 253(1)(b) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 71(a)**
- F293** Words in s. 253(2)(b) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 71(b)**

#### Commencement Information

- I218** S. 253 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### 254 Section 253: supplemental **E+W**

- (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.

#### Commencement Information

- I219** S. 254 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### 255 Amalgamation **E+W**

- (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 [<sup>F5</sup>a registered society] have been mismanaged in relation to social housing, or
  - (b) the management of social housing owned by a non-profit registered provider which is [<sup>F5</sup>a registered society] would be improved if the provider were amalgamated with another [<sup>F73</sup>registered society].
- (2) The regulator may make and execute on behalf of the society an instrument providing for the amalgamation of the society with another [<sup>F73</sup>registered society].
- (3) The regulator may act under subsection (2) only with the Secretary of State's consent.



*Status: Point in time view as at 01/04/2015.*

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- (4) An instrument providing for the amalgamation of a society (“S1”) with another has the same effect as a resolution by S1 under [F294section 109 of the Co-operative and Community Benefit Societies Act 2014] (amalgamation of societies by special resolution).
- (5) A copy of an instrument shall be sent to and registered by the [F295Financial Conduct 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.

#### 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. 122](#) (with Sch. 5)
- F73** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 123](#) (with Sch. 5)
- F294** Words in s. 255(4) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 133](#) (with Sch. 5)
- F295** Words in s. 255(5) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), Sch. 11 para. 8(2), [\(3\)\(f\)](#) (with Sch. 12)

#### Commencement Information

- I220** S. 255 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

*Restrictions on dealings [F296by non-profit registered providers]*

#### Textual Amendments

- F296** Words in cross-heading before s. 256 inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 72](#)

## 256 Restrictions on dealings during inquiry E+W

- (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

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- (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.
- (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.

#### Commencement Information

**I221** S. 256 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 257 Restrictions on dealings following inquiry **E+W**

- (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.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Housing and Regeneration Act 2008, Part 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I222** S. 257 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

### 258 Restrictions on dealings: supplemental **E+W**

- (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.

#### Commencement Information

**I223** S. 258 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

*Suspension and removal of officers [<sup>F297</sup>of non-profit registered providers]*

#### Textual Amendments

**F297** Words in cross-heading before s. 259 inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 73**

### 259 Suspension during inquiry **E+W**

- (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.

*Status: Point in time view as at 01/04/2015.*

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- (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.

#### Commencement Information

**I224** S. 259 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

### 260 Removal or suspension following inquiry **E+W**

- (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.

#### Commencement Information

**I225** S. 260 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

### 261 Suspension under section 259 or 260: supplemental **E+W**

- (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.

*Status: Point in time view as at 01/04/2015.*

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#### Commencement Information

**I226** S. 261 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 262 Disqualification of removed person **E+W**

- (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.

#### Commencement Information

**I227** S. 262 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 263 Register of disqualified persons **E+W**

- (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.

#### Commencement Information

**I228** S. 263 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 264 Acting while disqualified: offence **E+W**

- (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—

*Status: Point in time view as at 01/04/2015.*

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- (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.

#### Commencement Information

**I229** S. 264 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 265 Acting while disqualified: other consequences **E+W**

- (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.

#### Commencement Information

**I230** S. 265 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 266 Removal of officers **E+W**

- (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 [<sup>F298</sup>section 178 of the Charities Act 2011] 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.

*Status: Point in time view as at 01/04/2015.*

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#### Textual Amendments

**F298** Words in s. 266(6) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 134](#) (with s. 20(2), [Sch. 8](#))

#### Commencement Information

**I231** S. 266 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with [Sch.](#))

### 267 Section 266: supplemental **E+W**

- (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.

#### Commencement Information

**I232** S. 267 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with [Sch.](#))

### 268 Appeal against removal or suspension **E+W**

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

#### Commencement Information

**I233** S. 268 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with [Sch.](#))

### 269 Appointment of new officers **E+W**

- (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—



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- (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.

#### Commencement Information

**I234** S. 269 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### *F<sup>299</sup> Censure of local authority employees*

#### Textual Amendments

**F299** Ss. 269A, 269B and cross-heading inserted (1.4.2010) by [The Housing and Regeneration Act 2008](#) ([Registration of Local Authorities](#)) Order 2010 (S.I. 2010/844), [art. 1\(2\)](#), [Sch. 1 para. 74](#)

#### **269A Local authorities: censure during or following inquiry** E+W

- (1) The regulator may give a censure notice to a local authority if—
  - (a) an inquiry under section 206 is in progress in respect of the authority, 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 authority have been mismanaged, and
  - (b) that the interests of tenants of the authority, 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 authority have been mismanaged.
- (4) The regulator may also give a censure notice to a local authority if, as a result of an inquiry under section 206, the regulator is satisfied that the affairs of the authority have been mismanaged.
- (5) A censure notice is a notice identifying an employee or agent of the authority who the regulator thinks has contributed to the failure or mismanagement.
- (6) The notice must include the regulator's reasons.
- (7) The regulator shall send a copy of the notice to the employee or agent concerned.
- (8) No more than one employee or agent may be identified in a censure notice (but this does not prevent several notices being given in respect of the same failure or mismanagement).
- (9) Members of local authorities may not be identified in censure notices.

*Status: Point in time view as at 01/04/2015.*

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## 269B Response to censure notice **E+W**

- (1) A local authority to whom a censure notice is given under section 269A must respond to the regulator in writing within 28 days of receipt of the notice.
- (2) The response must—
  - (a) explain what action (if any) the authority has taken or proposes to take in relation to the employee or agent,
  - (b) explain why the authority does not think the employee or agent has contributed to the failure or mismanagement, or
  - (c) explain why the authority does not think its affairs have been mismanaged.]

## CHAPTER 8 **E+W**

### GENERAL

#### *Interpretation*

## 270 Officer **E+W**

The Table gives the meaning of “officer” in relation to registered providers.

<i>[<sup>F300</sup>private registered provider]</i>	<i>Meaning of “officer”</i>
Registered charity which is not a registered company	Trustee, secretary or treasurer
<i>[<sup>F73</sup>Registered society]</i>	“Officer” within the meaning given by <i>[<sup>F301</sup>section 149 of the Co-operative and Community Benefit Societies Act 2014]</i> (including a person co-opted to serve on the society's committee)
Registered company	“Officer” within the meaning given by section 1173 of the Companies Act 2006

### Textual Amendments

- F73** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014](#) (c. 14), s. 154, [Sch. 4 para. 123](#) (with Sch. 5)
- F300** Words in s. 270 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010](#) (S.I. 2010/844), art. 1(2), [Sch. 1 para. 75](#)
- F301** Words in s. 270 substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014](#) (c. 14), s. 154, [Sch. 4 para. 134](#) (with Sch. 5)

### Commencement Information

- I235** S. 270 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

## 271 Subsidiary and associate **E+W**

- (1) A company is a “subsidiary” of a person if any of the following conditions is satisfied.

*Status: Point in time view as at 01/04/2015.*

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- (2) Condition 1 is that the person—
- (a) is a member of the company, and
  - (b) has power, independent of any other person, to appoint or remove all or a majority of the board of directors.
- (3) Condition 2 is that the person holds more than half in nominal value of the company's equity share capital.
- (4) Condition 3 is that the company is a subsidiary, within the meaning of the Companies Act 2006 (c. 46) or [<sup>F302</sup>Part 7 of the Co-operative and Community Benefit Societies Act 2014], of a company which is a subsidiary of the person by virtue of Condition 1 or 2.
- (5) In relation to a company which is [<sup>F5</sup>a registered society] a reference to the board of directors is a reference to the committee of management.
- (6) “Associate” of a provider means—
- (a) a body of which the provider is a subsidiary, and
  - (b) any other subsidiary of that body.

#### 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. 122](#) (with [Sch. 5](#))

**F302** Words in s. 271(4) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014](#) (c. 14), s. 154, [Sch. 4 para. 135](#) (with [Sch. 5](#))

#### Commencement Information

**I236** S. 271 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 272 Family **E+W**

- (1) For the purposes of this Part one person is a member of the family of another if—
- (a) they are, or live together as if they were, spouses or civil partners, or
  - (b) one is the parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the other.
- (2) For those purposes—
- (a) a relationship by marriage or civil partnership shall be treated as a relationship by blood (and, in particular, P's stepchild shall be treated as P's child), and
  - (b) a relationship by half-blood shall be treated as a relationship by whole blood.

#### Commencement Information

**I237** S. 272 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 273 Disposal **E+W**

- (1) In this Part a reference to disposing of property is a reference to—
- (a) selling it,

*Status: Point in time view as at 01/04/2015.*

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- (b) leasing it,
  - (c) mortgaging it,
  - (d) making it subject to a charge, and
  - (e) disposing of it, or of any interest in it, in any other way.
- (2) Granting an option to require a disposal shall be treated as making a disposal.

**Commencement Information**

**I238** S. 273 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

**274 Charities that have “received public assistance” E+W**

- (1) For the purposes of this Part a registered charity has received public assistance if at least one of the following conditions is satisfied.
- (2) Condition 1 is that the charity has received financial assistance from the HCA under section 19.
- (3) Condition 2 is that the charity has received financial assistance under section 24 of the Local Government Act 1988 (c. 9) (assistance for privately let housing accommodation).
- (4) Condition 3 is that the charity has had housing transferred to it pursuant to—
- (a) a large scale disposal, within the meaning of section 34 of the Housing Act 1985 (c. 68), for which consent was required under section 32 or 43 of that Act, or
  - (b) a qualifying disposal that was made under section 135 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28).
- (5) Condition 4 is that the charity has received a grant or loan under—
- (a) section 18 of the Housing Act 1996 (c. 52) (social housing grants),
  - (b) section 22 of that Act (assistance from local authorities),
  - (c) section 58 of the Housing Associations Act 1985 (c. 69) (grants or loans by local authorities),
  - (d) section 50 of the Housing Act 1988 (c. 50), section 41 of the Housing Associations Act 1985 or any enactment replaced by that section (housing association grant),
  - (e) section 51 of the Housing Act 1988 (c. 50) or section 54 or 55 of the Housing Associations Act 1985 (c. 69) (revenue deficit grant or hostel deficit grant),
  - (f) section 79 of the Housing Associations Act 1985 (loans by Housing Corporation),
  - (g) section 31 of the Housing Act 1974 (c. 44) (management grants), or
  - (h) any enactment mentioned in paragraph 2 or 3 of Schedule 1 to the Housing Associations Act 1985 (pre-1974 grants and certain loans).

**Commencement Information**

**I239** S. 274 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

*Status: Point in time view as at 01/04/2015.*

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## 275 General **E+W**

In this Part, except where the context requires otherwise—

“action” includes inaction, proposed action and decision,

“assured agricultural occupancy” has the same meaning as in Part 1 of the Housing Act 1988,

“assured tenancy” has the same meaning as in that Part,

“the Charity Commission” means the Charity Commission for England and Wales,

“committee”, in relation to [<sup>F303</sup>a registered society], means the committee of management or other directing body of the society (including any person co-opted to serve on the committee, whether a member of the society or not),

“consent” means written consent,

“constitution” includes rules,

“conveyance” includes grant, assignment and any other instrument,

“district valuer” has the meaning given by section 622 of the Housing Act 1985 (c. 68),

“dwelling”—

(a) means a house, flat or other building or part of a building occupied or intended to be occupied as a separate dwelling, and

(b) includes any garden, yard, outhouse or other appurtenance belonging to, or usually enjoyed with, the dwelling,

“the HCA” means the Homes and Communities Agency,

<sup>F304</sup> ...

“local authority” has the same meaning as in the Housing Associations Act 1985,

“local housing authority” has the same meaning as in the Housing Act 1985,

“maintenance” includes repair,

“mismanagement”, in relation to the affairs of a registered provider, means—

(a) managed in contravention of a provision of this Part or of anything done under this Part, or

(b) otherwise conducted improperly or inappropriately,

“non-registrable charity” means a charity which is not required to be registered, in accordance with [<sup>F305</sup>section 30 of the Charities Act 2011,]

“notice” means written notice (and to “notify” means to give written notice),

[<sup>F306</sup>“preferential creditor”, “preferential debt”, “ordinary preferential debt” and “secondary preferential debt”] have the same meaning as in the Insolvency Act 1986 (c. 45),

“price” includes premium,

“registered charity” means a charity registered under [<sup>F307</sup>the Charities Act 2011,]

“registered company” means a company within the meaning of the Companies Act 2006 (c. 46),

[<sup>F308</sup>“registered society” has the same meaning as in the Co-operative and Community Benefit Societies Act 2014,]

“rent” includes payments under a licence to occupy accommodation,

“representations” means written representations,

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- “secure tenancy” has the same meaning as in Part 4 of the Housing Act 1985 (c. 68),
- “secured creditor” means a creditor who holds a mortgage or charge (including a floating charge) over—
- (a) land held by a registered provider, or
  - (b) a present or future interest of a registered provider in rents or other receipts from land,
- “tenant” in relation to social housing includes other occupiers, and
- “working day” means a day other than—
- (a) a Saturday or Sunday,
  - (b) Christmas Day or Good Friday, or
  - (c) a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 (c. 80).

#### Textual Amendments

- F303** Words in Act substituted (1.8.2014 immediately after s. 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 comes into force) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), Sch. 4 para. 122 (with [Sch. 5](#))
- F304** Words in s. 275 omitted (1.8.2014 immediately after s. 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 comes into force) by virtue of [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 136\(a\)](#) (with [Sch. 5](#))
- F305** Words in s. 275 substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 135\(a\)](#) (with [s. 20\(2\)](#), [Sch. 8](#))
- F306** Words in s. 275 substituted (1.1.2015) by [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), [30\(3\)](#) (with [art. 3](#))
- F307** Words in s. 275 substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 135\(b\)](#) (with [s. 20\(2\)](#), [Sch. 8](#))
- F308** Words in s. 275 inserted (1.8.2014 immediately after s. 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 comes into force) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 136\(b\)](#) (with [Sch. 5](#))

#### Commencement Information

- I240** S. 275 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)
- I241** S. 275 in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 276 Index of defined terms **E+W**

The Table lists expressions defined in this Part.

<i>Expression</i>	<i>Section</i>
F309	F309
...	...
Associate	Section 271
Assured agricultural occupancy	Section 275
Assured tenancy	Section 275
[ <sup>F310</sup> Censure notice]	[ <sup>F310</sup> Section 269A]

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*Status: Point in time view as at 01/04/2015.*

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[ <sup>F311</sup> The chair]	[ <sup>F311</sup> Section 92C]
Charity Commission	Section 275
Committee ([ <sup>F312</sup> registered society])	Section 275
Compensation notice	Section 240
Consent	Section 275
Constitution	Section 275
Conveyance	Section 275
Disposal	Section 273
District valuer	Section 275
Dwelling	Section 275
Enforcement notice	Sections 219 to 225
Equity percentage arrangements	Section 70(5)
[ <sup>F311</sup> External member]	[ <sup>F311</sup> Section 92C]
Family	Section 272
Financial year	Section 104
Fundamental objectives	[ <sup>F313</sup> Section 92K]
The HCA	Section 275
<sup>F314</sup>	<sup>F314</sup>
...	...
[ <sup>F311</sup> The internal member]	[ <sup>F311</sup> Section 92C]
Local authority	Section 275
Local housing authority	Section 275
Low cost home ownership accommodation	Section 70
Low cost rental accommodation	Section 69
Maintenance	Section 275
Mismanagement	Section 275
Non-profit organisation	Section 115
Non-registrable charity	Section 275
Notice	Section 275
Officer	Section 270
[ <sup>F315</sup> Ordinary preferential debt]	Section 275]
Penalty notice	Section 228
Pre-compensation warning	Section 242
Pre-penalty warning	Section 230
Preferential creditor	Section 275



*Status: Point in time view as at 01/04/2015.*

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Preferential debt	Section 275
Price	Section 275
[ <sup>F310</sup> Private registered provider (of social housing)]	[ <sup>F310</sup> Section 80]
Profit-making organisation	Section 115
Provider (of social housing)	Section 80
Received public assistance (charities)	Section 274
Registered charity	Section 275
Registered company	Section 275
Registered provider (of social housing)	Section 80
[ <sup>F316</sup> Registered society	Section 275]
The regulator	[ <sup>F317</sup> Section 92A]
The Regulator of Social Housing	[ <sup>F318</sup> Section 92A]
Rent	Section 275
Representations	Section 275
[ <sup>F315</sup> Secondary preferential debt	Section 275]
Secure tenancy	Section 275
Secured creditor	Section 275
Shared ownership arrangements	Section 70(4)
Shared ownership trust	Section 70(6)
Social housing	Section 68
Subsidiary	Section 271
Tenant	Section 275
Working day	Section 275

### Textual Amendments

- F309** S. 276 entry repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 53\(2\)](#), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F310** S. 276 entries inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 76](#)
- F311** Words in s. 276 inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 53\(6\)](#); [S.I. 2012/57](#), art. 4(1)(t)(iii) (with arts. 6, 7, 9-11)
- F312** Words in Act substituted (1.8.2014 immediately after s. 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 comes into force) by Co-operative and [Community Benefit Societies Act 2014 \(c. 14\)](#), [Sch. 4 para. 123](#) (with Sch. 5)
- F313** Words in s. 276 substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 53\(3\)](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)
- F314** Words in s. 276 omitted (1.8.2014 immediately after s. 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 comes into force) by virtue of [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 137\(a\)](#) (with Sch. 5)

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- F315** Words in s. 276 inserted (1.1.2015) by **The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486)**, arts. 1(2), **30(4)** (with art. 3)
- F316** Words in s. 276 inserted (1.8.2014 immediately after s. 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 comes into force) by **Co-operative and Community Benefit Societies Act 2014 (c. 14)**, s. 154, **Sch. 4 para. 137(b)** (with Sch. 5)
- F317** Words in s. 276 substituted (1.4.2012) by **Localism Act 2011 (c. 20)**, s. 240(2), **Sch. 16 para. 53(4)**; S.I. 2012/628, art. 6(i) (with arts. 911141517)
- F318** Words in s. 276 substituted (1.4.2012) by **Localism Act 2011 (c. 20)**, s. 240(2), **Sch. 16 para. 53(5)**; S.I. 2012/628, art. 6(i) (with arts. 911141517)

#### Commencement Information

- I242** S. 276 in force at 8.9.2008 for specified purposes by **S.I. 2008/2358, art. 3(1)**
- I243** S. 276 in force at 1.4.2010 in so far as not already in force by **S.I. 2010/862, art. 2** (with Sch.)

### Miscellaneous

#### 277 Consequential amendments **E+W**

Schedule 9 (which contains amendments of enactments) has effect.

#### Commencement Information

- I244** S. 277 in force at 8.9.2008 for specified purposes by **S.I. 2008/2358, art. 3(1)**
- I245** S. 277 in force at 1.12.2008 for specified purposes by **S.I. 2008/3068, art. 3** (with arts. 6-13)
- I246** S. 277 in force at 1.4.2009 for specified purposes by **S.I. 2009/803, art. 8(1)**
- I247** S. 277 in force at 1.4.2010 in so far as not already in force by **S.I. 2010/862, art. 2** (with Sch.)

#### 278 Transitional **E+W**

- (1) The regulator shall include in the register under section 111 on its establishment anyone—
- (a) who was registered under section 1 of the Housing Act 1996 (c. 52) (register of social landlords) immediately before section 61 came into force, and
  - (b) in relation to whom the Relevant Authority was the Housing Corporation (in accordance with section 56 of that Act).
- (2) A person registered under this section shall be designated as a non-profit organisation.

#### Commencement Information

- I248** S. 278 in force at 1.4.2010 by **S.I. 2010/862, art. 2** (with Sch.)

#### [<sup>F319</sup>278A] Power to nominate for consultation purposes **E+W**

- (1) The Secretary of State may for the purposes of the following provisions of this Part nominate a body appearing to the Secretary of State to represent the interests of tenants of social housing in England—
- (a) section 112(4);
  - (b) section 174(5);

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- (c) section 196(1);
- (d) section 197(4);
- (e) section 216.

(2) The Secretary of State must notify the regulator of any nomination (or withdrawal of any nomination) under this section.]

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**Textual Amendments**

**F319** S. 278A inserted (12.11.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), **ss. 26(2)**, 148(1)(c)

**Status:**

Point in time view as at 01/04/2015.

**Changes to legislation:**

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