



# Housing and Regeneration Act 2008

## 2008 CHAPTER 17

### PART 2

#### REGULATION OF SOCIAL HOUSING

### CHAPTER 1

#### INTRODUCTION

##### *Preliminary*

#### **59 Purpose**

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).

#### **60 Structural overview**

- (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).
- (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.

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<i>Chapter</i>	<i>Sections</i>	<i>Topic</i>	<i>Contents</i>
1	59 to 80	Introduction	(a) Preliminary (b) Social housing

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<i>Chapter</i>	<i>Sections</i>	<i>Topic</i>	<i>Contents</i>
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## **61 Restriction of “registered social landlord” system to Wales**

(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—

### **“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) an industrial and provident 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)—

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- (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.

<i>Expression</i>	<i>Substitution</i>
“the Relevant Authority”	“the Welsh Ministers”
“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.

## 62 References to Welsh Ministers

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

- (a) for “Secretary of State” substitute “Welsh Ministers”,
- (b) for “Secretary of State makes” substitute “Welsh Ministers make”,
- (c) for “he” substitute “they”,
- (d) for “him” substitute “them” (except in section 12A(4)), and
- (e) 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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<i>Provision</i>	<i>Topic</i>
Paragraph 9(3A)(b) of Schedule 1	Change of rules of industrial and provident 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

### **63 References to National Assembly for Wales**

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

### **64 Dissolution of Housing Corporation**

- (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).

### **65 Transfer schemes**

- (1) The Secretary of State may make one or more schemes for the transfer of the Housing Corporation’s property, rights or liabilities to—
  - (a) the regulator,
  - (b) the HCA, or
  - (c) 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—

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“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).

## **66 Interim arrangements**

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

- (a) the regulator, or
- (b) the HCA.

## **67 Transitional arrangements**

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

### *Social housing*

## **68 Basic principle**

- (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).

## **69 Low cost rental**

Accommodation is low cost rental accommodation if—

- (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.

## **70 Low cost home ownership**

- (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.

## **71 Shared ownership low cost rental**

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.

## **72 Regulations**

- (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.

## **73 Leaving the social housing stock: sale**

- (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
  - (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.

#### **74 Leaving the social housing stock: expired lease**

- (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).

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

- (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).
- (2) Subsection (1) does not apply to a disposal in pursuance of shared ownership arrangements or equity percentage arrangements.
- (3) Subsection (1) does 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.

#### **76 Leaving the social housing stock: regulator’s direction**

- (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.

#### **77 Housing stock under Housing Act 1996**

- (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.

*Other key concepts*

**78 Regulator of Social Housing**

- (1) Section 81 establishes the Office referred to in this Part as “the regulator”.
- (2) Chapter 2 makes provision for the regulator’s constitution and general powers.
- (3) Other provisions of this Part confer functions on the regulator.

**79 English bodies**

- (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) an industrial and provident society whose registered office for the purposes of the Industrial and Provident Societies Act 1965 (c. 12) 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), 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.

## **80 Provider of social housing**

- (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”.