



# Housing and Regeneration Act 2008

## 2008 CHAPTER 17

### PART 2

#### REGULATION OF SOCIAL HOUSING

#### CHAPTER 4

##### REGISTERED PROVIDERS

##### *General provisions*

#### **122 Payments to members etc.**

- (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

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(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>F1</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
- (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>F2</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>F3</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

**F1** S. 122(5A)(5B) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 177**, 240(1)(j)

**F2** 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](#))

**F3** 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

**I1** S. 122 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

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## 123 Disposal of property

Chapter 5 makes provision about disposal of property [<sup>F4</sup>by private registered providers].

### Textual Amendments

**F4** 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

**I2** S. 123 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

## 124 Complaints

- (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

**I3** S. 124 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

## 125 Voluntary undertaking

- (1) A registered provider may give the regulator an undertaking in respect of any matter concerning social housing.

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- (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

**I4** S. 125 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### <sup>F5</sup>126 Sustainable community strategies

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#### Textual Amendments

**F5** S. 126 omitted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), [ss. 100\(2\)\(e\)](#), [115\(3\)\(k\)](#)

### *Accounts*

### 127 Directions

- (1) The regulator may give directions to [<sup>F6</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.

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- (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>F7</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.

#### Textual Amendments

- F6** 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)**
- F7** 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

- I5** S. 127(1)-(5) (7) in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))
- I6** S. 127(6) in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), **art. 3(1)** (with [art. 3\(3\)\(4\)](#))
- I7** 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

- (1) Each [<sup>F8</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—
  - (a) an auditor's report, or
  - (b) 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>F9</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—
  - (a) [<sup>F10</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;
  - (b) 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

- F8** 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)**
- F9** 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)**
- F10** 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)**

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#### Commencement Information

**I8** S. 128 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 129 Companies exempt from audit

- (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

**I9** S. 129 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 130 Exempt companies: accountant's report

- (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

**I10** S. 130 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

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### **131 Exempt companies: reporting accountant**

- (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
  - (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**

- I11** S. 131(1)-(4) (6) (7) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))
- I12** S. 131(5) in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

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## 132 Application of Companies Act

- (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).
- (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

**I13** S. 132 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 133 Exempt companies: extraordinary audit

- (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

**I14** S. 133 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))



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### 134 Non-audited [<sup>F2</sup>registered society]

- (1) This section applies to a registered provider which is [<sup>F11</sup>a registered society].
- [<sup>F12</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) (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>F13</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>F14</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

- F2** 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](#))
- F11** 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** 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](#))
- F13** 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](#))
- F14** 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

- I15** S. 134 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 135 Charity

- (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.

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- (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
  - (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 [F15Part 8 of the Charities Act 2011].

#### Textual Amendments

**F15** 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

**I16** S. 135 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with Sch.)

### 136 Charity: audit

- (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 [F16section 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 [F17section 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 [F18section 144(1)(b)].
- (6) “Gross income” has the same meaning as in [F19section 144 of the Charities Act 2011].
- (7) “Qualified person” means a person professionally qualified as an accountant.

#### Textual Amendments

**F16** 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)

**F17** 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)

**F18** 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)

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**F19** 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**

**I17** S. 136 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with [Sch.](#))

**137 Charity: auditor's report**

- (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**

**I18** S. 137 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with [Sch.](#))

**138 Charity: accountant's report**

- (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>F20</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.

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- (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

**F20** 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](#))

#### Commencement Information

**I19** S. 138 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 139 Charity: extraordinary audit

- (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

**I20** S. 139 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 140 Charity: auditor's powers

- (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

**I21** S. 140 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

*Status: Point in time view as at 28/12/2020.*

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## 141 Offences

- (1) A [<sup>F21</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;
  - (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>F21</sup>private registered provider] fails to comply with a direction, provision or requirement mentioned in subsection (1) every officer of the [<sup>F21</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>F21</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

**F21** 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

**I22** S. 141 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with [Sch.](#))

## 142 High Court

- (1) If a [<sup>F22</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.

*Status: Point in time view as at 28/12/2020.*

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#### **Textual Amendments**

**F22** 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**

**I23** S. 142 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### **143 Disclosure**

- (1) This section applies to information that a person has received while acting—
  - (a) as auditor of a [<sup>F23</sup>private registered provider], or
  - (b) as a reporting accountant in relation to a [<sup>F24</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**

**F23** 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**

**F24** 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**

**I24** S. 143 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

*Insolvency etc.*

### **[<sup>F25</sup>143A Application of rules about insolvency**

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

#### **Textual Amendments**

**F25** 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**

### **[<sup>F26</sup>144 Preparatory steps: notice**

.....

*Status: Point in time view as at 28/12/2020.*

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#### Textual Amendments

- F26** S. 144 omitted (5.7.2018) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 6 para. 2](#); [S.I. 2018/805](#), reg. 3(c)

### [<sup>F27</sup>145 Moratorium

A moratorium on the disposal of land by a private registered provider begins if a notice is given to the regulator under any of the following provisions of the Housing and Planning Act 2016—

- (a) section 104(2)(a) (notice of winding up petition);
- (b) section 105(4)(a) (notice of application for permission to pass a resolution for voluntary winding up);
- (c) section 106(3)(a) (notice of ordinary administration application);
- (d) section 107(4)(a) (notice of appointment of ordinary administrator);
- (e) section 108(2)(a) (notice of intention to enforce security).]

#### Textual Amendments

- F27** S. 145 substituted (5.7.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 6 para. 3](#); [S.I. 2018/805](#), reg. 3(c) (with regs. 4, 5)

### 146 Duration of moratorium

[<sup>F28</sup>(1) The moratorium begins when the notice mentioned in section 145 is given.]

[<sup>F28</sup>(2) The moratorium ends when one of the following occurs—

- (a) the expiry of the relevant period,
- (b) the making of a housing administration order under Chapter 5 of Part 4 of the Housing and Planning Act 2016 in relation to the registered provider, or
- (c) the cancellation of the moratorium (see subsection (5)).]

[<sup>F28</sup>(2A) The “relevant period” is—

- (a) the period of 28 days beginning with the day on which the notice mentioned in section 145 is given, plus
- (b) any period by which that period is extended under subsection (3).]

(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>F29</sup>and]
- (b) any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or its land, <sup>F30</sup>...

<sup>F31</sup>(c) .....

[<sup>F32</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.]



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- (5) During a moratorium the regulator may cancel it if satisfied that it is unnecessary to make proposals under section 152.
- <sup>F33</sup>(6) . . . . .
- (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>F34</sup>(7A) The regulator shall also notify the HCA as follows—
- (a) if it extends a moratorium, and
  - (b) when a moratorium ends.]

<sup>F35</sup>(8) . . . . .

[<sup>F36</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.]

[<sup>F37</sup>(9) If a notice mentioned in section 145 is given during a moratorium, that does not—

    - (a) start a new moratorium, or
    - (b) alter the existing moratorium's duration.]

#### Textual Amendments

- F28** S. 146(1)-(2A) substituted for s. 146(1) (5.7.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 6 para. 4\(2\)](#); S.I. 2018/805, [reg. 3\(c\)](#) (with [reg. 4](#))
- F29** 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](#))
- F30** 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](#))
- F31** 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](#))
- F32** 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](#))
- F33** S. 146(6) omitted (5.7.2018) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 6 para. 4\(3\)](#); S.I. 2018/805, [reg. 3\(c\)](#) (with [reg. 4](#))
- F34** S. 146(7A) inserted (1.10.2018) by [The Legislative Reform \(Regulator of Social Housing\) \(England\) Order 2018 \(S.I. 2018/1040\)](#), [art. 1\(2\)](#), [Sch. para. 23](#) (with [Pt. 4](#))
- F35** 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](#))
- F36** 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](#))
- F37** S. 146(9) substituted (5.7.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 6 para. 4\(4\)](#); S.I. 2018/805, [reg. 3\(c\)](#) (with [reg. 4](#))

#### Commencement Information

- I25** S. 146 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))



*Status: Point in time view as at 28/12/2020.*

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## 147 Further moratorium

- (1) This section applies if—
  - (a) a moratorium in respect of a [<sup>F38</sup>private registered provider] ends otherwise than by cancellation, and
  - (b) a further [<sup>F39</sup>notice mentioned in section 145 is given] in relation to the provider within the period of 3 years beginning with the end of the moratorium.
- (2) The further [<sup>F40</sup>notice] 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—
  - <sup>F41</sup>(za) the HCA,
    - (a) the registered provider,<sup>F42</sup>and]
    - (b) any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or any of its land, <sup>F43</sup>...
  - <sup>F44</sup>(c) .....
- <sup>F45</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

- F38** 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**
- F39** Words in s. 147(1)(b) substituted (5.7.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 6 para. 5(2)**; [S.I. 2018/805](#), reg. 3(c) (with reg. 5)
- F40** Word in s. 147(2) substituted (5.7.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 6 para. 5(3)**; [S.I. 2018/805](#), reg. 3(c) (with reg. 5)
- F41** S. 147(4)(za) inserted (1.10.2018) by [The Legislative Reform \(Regulator of Social Housing\) \(England\) Order 2018 \(S.I. 2018/1040\)](#), art. 1(2), **Sch. para. 24** (with Pt. 4)
- F42** 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)
- F43** 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)
- F44** 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)
- F45** 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

- I26** S. 147 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

*Status: Point in time view as at 28/12/2020.*

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## 148 Effect of moratorium

- (1) During a moratorium [<sup>F46</sup>neither] the HCA [<sup>F47</sup>, nor the Greater London Authority, may]—
  - (a) <sup>F48</sup> ... give the registered provider a direction under section 32(4), [<sup>F49</sup>or]
  - (b) <sup>F50</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

- F46** 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](#))
- F47** 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](#))
- F48** 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](#))
- F49** 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](#))
- F50** 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

- I27** S. 148 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with Sch.)

## 149 Exempted disposals

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

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(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).

<sup>F51</sup>(6) .....

(7) Exception [<sup>F52</sup>5] is a disposal under Part V of the Housing Act 1985 (right to buy).

(8) Exception [<sup>F53</sup>6] is a disposal under the right conferred by—

(a) section 180, <sup>F54</sup>...

<sup>F54</sup>(b) .....

#### Textual Amendments

**F51** S. 149(6) omitted (6.4.2017) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 4 para. 12\(a\)](#); [S.I. 2017/75](#), reg. 4

**F52** Word in s. 149(7) substituted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 4 para. 12\(b\)](#); [S.I. 2017/75](#), reg. 4

**F53** Word in s. 149(8) substituted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 4 para. 12\(c\)](#); [S.I. 2017/75](#), reg. 4

**F54** S. 149(8)(b) and preceding word omitted (26.1.2019) by virtue of [Abolition of the Right to Buy and Associated Rights \(Wales\) Act 2018 \(anaw 1\)](#), s. 11(3)(4), [Sch. 1 para. 6\(4\)](#); [S.I. 2018/100](#), art. 2(b) (with art. 3) (with savings in [S.I. 2019/110](#), reg. 5)

#### Commencement Information

**I28** S. 149 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 150 Disposals without consent

(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

**I29** S. 150 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 151 Interim manager

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

(2) An appointment may relate to the registered provider's affairs generally or to affairs specified in the appointment.

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- (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

**I30** S. 151 in force at 1.4.2010 by S.I. 2010/862, art. 2 (with Sch.)

## 152 Proposals

- (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>F55</sup> ...
  - <sup>F56</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>F57</sup>an ordinary preferential debt] than another preferential creditor (PC2) (unless PC1 consents)<sup>F58</sup> ...
  - <sup>F59</sup>(c) a preferential creditor (PC1) being paid a smaller proportion of a secondary preferential debt than another preferential creditor (PC2) (unless PC2 consents)]<sup>F60</sup>or]
  - <sup>F60</sup>(d) if the registered provider is a relevant financial institution—

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- (i) an ordinary non-preferential debt being paid otherwise than in priority to a secondary non-preferential debt,
  - (ii) a secondary non-preferential debt being paid otherwise than in priority to a tertiary non-preferential debt, or
  - (iii) a secondary non-preferential creditor (Creditor 1) being paid a smaller proportion of a secondary non-preferential debt than another secondary non-preferential creditor (Creditor 2) (unless Creditor 1 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

- F55** 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)
- F56** 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)
- F57** 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)
- F58** Word in s. 152(4)(b) omitted (19.12.2018) by virtue of [The Banks and Building Societies \(Priorities on Insolvency\) Order 2018 \(S.I. 2018/1244\)](#), arts. 1(2), **40(2)(a)** (with art. 3)
- F59** 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)
- F60** S. 152(4)(d) and preceding word inserted (19.12.2018) by [The Banks and Building Societies \(Priorities on Insolvency\) Order 2018 \(S.I. 2018/1244\)](#), arts. 1(2), **40(2)(b)** (with art. 3)

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

- C1** S. 152 modified (28.12.2020 until IP completion day when the amending provision ceases to have effect in accordance with reg. 1(4) of the amending S.I.) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(4), **124(a)** (with reg. 108)

#### Commencement Information

- I31** S. 152 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

## 153 Proposals: procedure

- (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>F11</sup>a registered society], the [<sup>F61</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

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- (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.
- (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>F11</sup>a registered society], the [<sup>F62</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

- F11** 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](#))
- F61** 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](#))
- F62** 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

- I32** S. 153 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 154 Proposals: effect

- (1) The following are obliged to implement agreed proposals—
- (a) the regulator,

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- (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,
  - [<sup>F63</sup>(aa) in the case of a charitable incorporated organisation, its charity trustees (as defined by section 177 of the Charities Act 2011),]
  - (b) in the case of [<sup>F11</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.

#### Textual Amendments

**F11** 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](#))

**F63** [S. 154\(2\)\(aa\)](#) inserted (5.7.2018) by [Housing and Planning Act 2016](#) (c. 22), s. 216(3), [Sch. 6 para. 6](#); [S.I. 2018/805](#), reg. 3(c)

#### Commencement Information

**I33** [S. 154](#) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 155 Manager: appointment

- (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

**I34** [S. 155](#) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 156 Manager: powers

- (1) A manager—



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- (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;
  - (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

**I35** S. 156 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### 157 **Manager of [<sup>F2</sup>registered society]: extra powers**

- (1) This section applies to a manager appointed to implement proposals relating to [<sup>F11</sup>a 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 [<sup>F2</sup>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 [<sup>F64</sup>section 109 of the Co-operative



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- 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 [<sup>F65</sup>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 [<sup>F66</sup>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.

#### Textual Amendments

- F2** 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)
- F11** 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)
- F64** 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)
- F65** 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)
- F66** 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

- I36** S. 157 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

## 158 Assistance by regulator

- (1) The regulator may give financial or other assistance to [<sup>F67</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>F68</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.

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#### **Textual Amendments**

- F67** 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**
- F68** 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**

- I37** S. 158 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### **159 Applications to court**

- (1) [<sup>F69</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>F70</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**

- F69** 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)**
- F70** 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**

- I38** S. 159 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

### *Restructuring and dissolution*

#### **[<sup>F71</sup>159A Application of rules about restructuring and dissolution**

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

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#### Textual Amendments

**F71** 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](#)

### [<sup>F72</sup>160 Company: arrangements and reconstructions

- (1) This section applies to a non-profit registered provider which is a registered company.
- (2) The registered provider must notify the regulator of any voluntary arrangement under Part 1 of the Insolvency Act 1986.
- (3) The registered provider must notify the regulator of any order under section 899 of the Companies Act 2006 (court sanction for compromise or arrangement).
- (4) An order under section 899 of Companies Act 2006 does not take effect until the registered provider has confirmed to the registrar of companies that the regulator has been notified.
- (5) The registered provider must notify the regulator of any order under section 900 of the Companies Act 2006 (powers of court to facilitate reconstruction or amalgamation).
- (6) 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 confirmation that the regulator has been notified.
- [<sup>F73</sup>(7) The registered provider must notify the regulator of any order under section 901F of the Companies Act 2006 (court sanction for compromise or arrangement).
- (8) An order under section 901F of the Companies Act 2006 does not take effect until the registered provider has confirmed to the registrar of companies that the regulator has been notified.
- (9) The registered provider must notify the regulator of any order under section 901J of the Companies Act 2006 (powers of court to facilitate reconstruction or amalgamation).
- (10) The requirement in section 901J(6) of the Companies Act 2006 (sending copy of order to registrar) is satisfied only if the copy is accompanied by confirmation that the regulator has been notified.]]

#### Textual Amendments

- F72** S. 160 substituted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 4 para. 24](#); [S.I. 2017/75](#), reg. 4
- F73** S. 160(7)-(10) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 9 para. 40](#) (with ss. 2(2), 5(2))

### [<sup>F74</sup>161 Company: conversion into registered society

- (1) This section applies to a non-profit registered provider which is a registered company.
- (2) The registered provider must notify the regulator of any resolution under section 115 of the Co-operative and Community Benefit Societies Act 2014 for converting the registered provider into a registered society.

*Status: Point in time view as at 28/12/2020.*

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- (3) The registrar of companies may register a resolution under that section only if the registered provider has confirmed to the registrar that the regulator has been notified.
- (4) The regulator must decide whether the new body is eligible for registration under section 112.
- (5) If the new body is eligible for registration, the regulator must register it and designate it as a non-profit organisation.
- (6) If the new body is not eligible for registration, the regulator must notify it of that fact.
- (7) Pending registration, or notification that it is not eligible for registration, the new body is to be treated as if it were registered and designated as a non-profit organisation.]

#### Textual Amendments

**F74** S. 161 substituted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 4 para. 25; S.I. 2017/75, reg. 4](#)

### <sup>F75</sup> 162 Company: winding up

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#### Textual Amendments

**F75** S. 162 omitted (5.7.2018) by virtue of [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 6 para. 7; S.I. 2018/805, reg. 3\(c\)](#)

### [<sup>F76</sup> 163 Registered society: restructuring

- (1) This section applies to a non-profit registered provider which is a registered society.
- (2) The registered provider must notify the regulator of any resolution passed by the society for the purposes of the restructuring provisions listed in subsection (4).
- (3) The Financial Conduct Authority may register the resolution only if the registered provider has confirmed to the Financial Conduct Authority that the regulator has been notified.
- (4) The following provisions of the Co-operative and Community Benefit Societies Act 2014 are the restructuring provisions—
  - (a) section 109 (amalgamation of societies);
  - (b) section 110 (transfer of engagements between societies);
  - (c) section 112 (conversion of society into a company etc).
- (5) The regulator must decide whether the body created or to whom engagements are transferred (“the new body”) is eligible for registration under section 112.
- (6) If the new body is eligible for registration, the regulator must register it and designate it as a non-profit organisation.
- (7) If the new body is not eligible for registration, the regulator must notify it of that fact.

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- (8) Pending registration, or notification that it is not eligible for registration, the new body is to be treated as if it were registered and designated as a non-profit organisation.]

#### Textual Amendments

- F76** S. 163 substituted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 4 para. 26](#); [S.I. 2017/75](#), reg. 4

### <sup>F77</sup>164 Registered society: winding up

#### Textual Amendments

- F77** S. 164 omitted (5.7.2018) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 6 para. 8](#); [S.I. 2018/805](#), reg. 3(c)

### 165 [<sup>F2</sup>Registered society]: dissolution

- (1) This section applies to a non-profit registered provider which is—
- [<sup>F11</sup>a registered society], and
  - to be dissolved by instrument of dissolution in accordance with [<sup>F78</sup>section 119 of the Co-operative and Community Benefit Societies Act 2014.]

[<sup>F79</sup>(2) The registered provider must notify the regulator.

- (3) The Financial Conduct Authority may register the instrument under section 121 of that Act, or cause notice of the dissolution to be advertised under section 122 of that Act, only if the registered provider has confirmed to the Financial Conduct Authority that the regulator has been notified.]

#### Textual Amendments

- F2** 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](#))
- F11** 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](#))
- F78** 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](#))
- F79** S. 165(2)(3) substituted for s. 165(2) (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 4 para. 27](#); [S.I. 2017/75](#), reg. 4

#### Commencement Information

- I39** S. 165 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

### <sup>F80</sup>166 Winding up petition by regulator

*Status: Point in time view as at 28/12/2020.*

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### Textual Amendments

- F80** S. 166 omitted (6.4.2017) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 4 para. 28](#); [S.I. 2017/75](#), reg. 4

## 167 Transfer of property

- (1) This section applies—
- (a) where a non-profit registered provider which is [<sup>F11</sup>a registered society] is dissolved in accordance with [<sup>F81</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>F82</sup>(a) . . . . .
  - (b) the Insolvency Act 1986,
  - (c) the Companies Act 2006 (c. 46),
  - [<sup>F83</sup>(ca) the Co-operative and Community Benefit Societies Act 2014,] or
  - (d) the constitution of a registered provider.

### Textual Amendments

- F11** 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](#))
- F81** 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](#))
- F82** 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](#))
- F83** 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

- I40** S. 167 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

*Status: Point in time view as at 28/12/2020.*

*Changes to legislation: Housing and Regeneration Act 2008, Chapter 4 is up to date with all changes known to be in force on or before 27 July 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)*

## 168 Section 167: supplemental

- (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

**I41** S. 168 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## 169 Extension of sections 167 and 168

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.

### Commencement Information

**I42** S. 169 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

## *<sup>F84</sup>Notification of constitutional changes*

### Textual Amendments

**F84** Ss. 169A-169D and cross-headings inserted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 4 para. 29](#); [S.I. 2017/75](#), reg. 4

## 169A Registered societies: change of rules

A non-profit registered provider that is a registered society must notify the regulator of any change to the society's rules.

## 169B Charity: change of objects

The trustees of a registered charity that is a non-profit registered provider must notify the regulator of any amendment to the charity's objects.

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*Status: Point in time view as at 28/12/2020.*

*Changes to legislation: Housing and Regeneration Act 2008, Chapter 4 is up to date with all changes known to be in force on or before 27 July 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)*

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### **169C Companies: change of articles etc**

A non-profit registered provider that is a registered company must notify the regulator of—

- (a) any amendment of the company's articles of association,
- (b) any change to its name or registered office.]

*[<sup>F84</sup>Directions about notifications*

### **169D Directions about notifications**

- (1) The regulator may give directions about—
  - (a) the period within which notifications under sections 160 to 165 or 169A to 169C must be given by private registered providers;
  - (b) the content of those notifications.
- (2) The regulator may give directions dispensing with notification requirements imposed by sections 160 to 165 or 169A to 169C.
- (3) A direction under this section may be—
  - (a) general, or
  - (b) specific (whether as to particular registered providers, particular kinds of notification requirement or in any other way).
- (4) A direction dispensing with a notification requirement may include conditions.
- (5) The regulator must make arrangements for bringing a direction under this section to the attention of every registered provider to which it applies.]



**Status:**

Point in time view as at 28/12/2020.

**Changes to legislation:**

Housing and Regeneration Act 2008, Chapter 4 is up to date with all changes known to be in force on or before 27 July 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.