



Housing and Regeneration Act 2008

2008 CHAPTER 17

PART 2

REGULATION OF SOCIAL HOUSING

CHAPTER 7

ENFORCEMENT POWERS

Compensation

236 Overview

This group of sections allows the regulator to award compensation to a victim of a failure on the part of a [^{F1}private registered provider].

Textual Amendments

F1 Words in s. 236 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 60**

Commencement Information

I1 S. 236 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

237 Grounds for award

- (1) The regulator may require a [^{F2}private registered provider] to pay compensation if the regulator is satisfied that—
- either of the following cases applies, and
 - the award of compensation is appropriate (whether or not as part of a response including other action).

Status: Point in time view as at 01/04/2013.

Changes to legislation: Housing and Regeneration Act 2008, Cross Heading: Compensation is up to date with all changes known to be in force on or before 11 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Case 1 is where the registered provider has failed to meet a standard under section 193 or 194.
- (3) Case 2 is where the registered provider has given an undertaking under section 125 and failed to comply with it.

Textual Amendments

F2 Words in s. 237(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 61**

Commencement Information

I2 S. 237 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

238 Nature

- (1) Compensation in respect of a failure may be awarded to one or more persons who have suffered as a result of the failure.
- (2) But an award may be made only to—
 - (a) a specified tenant of social housing provided by the registered provider,
 - (b) each member of a specified class of tenants of social housing provided by the registered provider, or
 - (c) each member of the class of tenants of social housing provided by the registered provider.

Commencement Information

I3 S. 238 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

239 Housing ombudsman compensation

- (1) The regulator may not award compensation to a person in respect of a matter if an ombudsman appointed by virtue of section 124 has awarded compensation to the person in respect of the matter.

^{F3}(2)

Textual Amendments

F3 S. 239(2) repealed (1.4.2013 for E.) by [Localism Act 2011 \(c. 20\)](#), ss. 180(2), 240(2), **Sch. 25 Pt. 28** (with s. 180(5)); [S.I. 2013/722](#), art. 2(b)

Commencement Information

I4 S. 239 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

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240 Award

- (1) Compensation is awarded by the regulator giving notice (a “compensation notice”) to—
 - (a) the registered provider, and
 - (b) the person to be compensated.
- (2) The notice must specify—
 - (a) the grounds on which the compensation is awarded,
 - (b) the amount of the compensation,
 - (c) the person to be compensated,
 - (d) any interest or additional compensation which, by virtue of section 244(2), is payable in the event of late payment, and
 - (e) a period within which it must be paid.
- (3) The notice may require the registered provider to publish information about the compensation award in a specified manner.
- (4) The notice must explain the effect of sections 244(1) and (3) and 245.
- (5) The Secretary of State—
 - (a) shall make regulations about the period under subsection (2)(e),
 - (b) may make other regulations about the form and content of a compensation notice, and
 - (c) may make regulations about the manner in which a compensation notice is given.

Commencement Information

- I5** S. 240(1)-(4) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))
- I6** S. 240(5) in force at 1.4.2009 for specified purposes by [S.I. 2009/803](#), [art. 7\(c\)](#)
- I7** S. 240(5) in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

241 Impact

- (1) This section applies when the regulator is considering—
 - (a) whether to award compensation, or
 - (b) the amount of compensation to award.
- (2) The regulator must take account of any information available to it about the financial situation of the registered provider.
- (3) The regulator must consider the likely impact of the compensation on the registered provider's ability to provide services.
- (4) In particular, the regulator must aim to avoid—
 - (a) jeopardising the financial viability of the registered provider,
 - (b) preventing the registered provider from honouring financial commitments, or
 - (c) preventing the registered provider from taking action to remedy the matters on the grounds of which the compensation might be awarded.

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Commencement Information

I8 S. 241 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

242 Warning

- (1) Before giving a compensation notice to a [^{F4}private registered provider] the regulator must give the provider a notice (a “pre-compensation warning”)—
 - (a) specifying grounds on which the regulator thinks compensation could be awarded,
 - (b) warning the provider that the regulator is considering awarding compensation to a specified person,
 - (c) including any indication that the regulator is able to give of the likely amount of any compensation, and
 - (d) explaining the effect of sections 243, 244(1) and (3) and 245.
- (2) Before giving a pre-compensation warning the regulator must consult the person appointed by virtue of section 124 as the ombudsman for the scheme of which the registered provider is a member.
- (3) If the regulator gives a pre-compensation warning it must send a copy to—
 - ^{F5}(a)
 - [^{F6}(aa) the Greater London Authority (if the pre-compensation warning is given to a registered provider who owns land in Greater London), and]
 - (b) any other persons it thinks appropriate.
- (4) For the purposes of subsection (3)(b) the regulator shall consider, in particular, any person who provided information as a result of which the pre-compensation warning is given.
- (5) A pre-compensation warning must—
 - (a) refer to section 125 (voluntary undertaking), and
 - (b) indicate whether or to what extent the regulator would accept a voluntary undertaking instead of, or in mitigation of, awarding compensation.
- (6) A pre-compensation warning may be combined with notice under one or more of sections 230, 248, 250 and 252.

Textual Amendments

- F4** Words in s. 242(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 62](#)
- F5** S. 242(3)(a) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 16 para. 49](#), [Sch. 25 Pt. 26](#); [S.I. 2012/628](#), art. 6(i)(j) (with arts. 911141517)
- F6** S. 242(3)(aa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 61](#); [S.I. 2012/628](#), art. 6(i) (with arts. 911141517)

Commencement Information

I9 S. 242 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

Status: Point in time view as at 01/04/2013.

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243 Representations

- (1) A pre-compensation warning must specify a period during which the registered provider may make representations to the regulator.
- (2) The period must—
 - (a) be a period of at least 28 days, and
 - (b) begin with the date on which the registered provider receives the pre-compensation warning.
- (3) Representations may address—
 - (a) whether compensation should be awarded;
 - (b) the amount of any compensation that may be awarded.
- (4) After the end of the period specified under subsection (1) the regulator shall—
 - (a) consider any representations made, and
 - (b) decide whether to award compensation.

Commencement Information

I10 S. 243 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

244 Enforcement

- (1) Compensation shall be treated as a debt owed to the person to whom it is awarded.
- (2) The Treasury may make regulations authorising the regulator—
 - (a) to award interest on compensation not paid during the period specified under section 240(2)(e);
 - (b) to award additional compensation where compensation is not paid during that period.
- (3) Interest and additional compensation shall be treated as compensation.
- (4) Regulations under subsection (2)(a) may provide for an interest rate to be—
 - (a) set by a specified person, or
 - (b) determined in accordance with the regulations.

Commencement Information

I11 S. 244(1)(3) in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

I12 S. 244(2)(4) in force at 1.4.2009 for specified purposes by [S.I. 2009/803](#), [art. 7\(d\)](#)

I13 S. 244(2)(4) in force at 1.4.2010 in so far as not already in force by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

245 Appeal

A [^{F7}private registered provider] who is given a compensation notice may appeal to the High Court against—

- (a) the award of compensation,
- (b) its amount, or
- (c) both.

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Textual Amendments

F7 Words in s. 245 substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 1 para. 63**

Commencement Information

I14 S. 245 in force at 1.4.2010 by [S.I. 2010/862](#), **art. 2** (with Sch.)

Status:

Point in time view as at 01/04/2013.

Changes to legislation:

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