

# **PREVENTION OF SOCIAL HOUSING FRAUD ACT 2013**

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## **EXPLANATORY NOTES**

### **SUMMARY AND BACKGROUND**

3. The Prevention of Social Housing Fraud Act creates new criminal offences of unlawful sub-letting by secure and assured tenants of social housing. It also makes provision concerning the prosecution of these offences (including prosecution powers for local authorities). The Act additionally provides for courts to make orders for the recovery from defendants of profits made from unlawful sub-letting, either following conviction or in separate civil proceedings. It provides that assured tenants of dwelling-houses let by social landlords who unlawfully part with possession of, or sub-let, their dwelling-houses lose their status as assured tenants and cannot subsequently regain that status; in this respect, the Act brings assured tenancies into line with secure tenancies (where the restoration of secure status is already excluded following parting with possession or sub-letting of the whole dwelling-house by the tenant). Finally, the Act also provides powers for the Secretary of State and the Welsh Ministers to make regulations in relation to social housing fraud investigations. Those regulations will contain provisions equivalent to some of those set out in Part 6 of the Social Security Administration Act 1992 (with modifications) which deal with the investigation of fraudulent claims for social security benefits.
4. The policy rationale for the new provisions is to ensure that social housing is being occupied by those to whom it was allocated, and that local authorities have access to more information in order to be able to detect fraud in the social housing stock. Whilst the current law provides that a secure tenant who has sub-let or parted with possession of the whole dwelling-house ceases to be a secure tenant and that a tenant who is not in occupation of the dwelling-house cannot be an assured tenant (which enables the landlord to gain possession of the dwelling-house more easily), this has not proved to be an adequate deterrent to sub-letting and parting with possession, as tenants only risk losing the tenancy of a property in which they do not live.
5. The new provisions are intended to create additional deterrents to unlawful sub-letting in the form of the new offences, orders for the recovery of profits and loss of assured tenancy status.