

**2008 No. 2358 (C. 103)**

**HOUSING, ENGLAND**

**The Housing and Regeneration Act 2008 (Commencement No. 1  
and Transitional Provision) Order 2008**

*Made* - - - - *2nd September 2008*

The Secretary of State, in exercise of the powers conferred by sections 320, 322 and 325 of the Housing and Regeneration Act 2008(a), makes the following Order:

**Citation and interpretation**

**1.**—(1) This Order may be cited as the Housing and Regeneration Act 2008 (Commencement No. 1 and Transitional Provision) Order 2008.

(2) In this Order, “the Act” means the Housing and Regeneration Act 2008, and “the commencement date” means 8th September 2008.

**Commencement of certain provisions of Part 1 relating to the Homes and Communities Agency**

**2.**—(1) The following provisions of Part 1 of the Act shall come into force on the commencement date—

Section 1 (establishment and constitution of the HCA) and Schedule 1

Sections 2 and 3 (objects and principal powers of the HCA)

Section 4 (powers: general), in relation to the specific powers brought into force by this Order

Section 37 (duty to co-operate with Regulator of Social Housing)

Section 44 (local government involvement)

Sections 46 and 47 (guidance and directions by the Secretary of State)

Sections 49 and 50(1) (abolition of existing bodies)

Section 51 (property etc. transfer schemes), and Schedules 6 and 7 as they apply in relation to, or make provision about the tax implications of, schemes under section 51

Section 52 (role of the HCA in relation to former CNT functions)

Section 53 (interim arrangements)

Section 54 (validity of transactions)

Section 55 (notices)

Section 56 (consequential amendments), for the purpose of bringing into force the provisions of Schedule 8 specified in paragraph (2)

Sections 57 and 58 (interpretation etc of Part 1), so far as required for the interpretation of provisions commenced by this Order.

(2) The provisions of Schedule 8 referred to in paragraph (1) and coming into force on the commencement date are paragraphs 1, 4(a) and (b), 19(1) and (2), 20(1) and (2), 21(1) and (2), and 77(1) and (2).

### **Commencement of certain provisions of Part 2 relating to the regulation of social housing**

3.—(1) The following provisions of Part 2 of the Act shall come into force on the commencement date—

Section 59 (purpose)

Sections 65 to 67 (transfer schemes and interim and transitional arrangements) and Schedules 6 and 7 as they apply in relation to, or make provision about the tax implications of, schemes under section 65

Section 72 (power to make regulations providing for property to be treated or not to be treated as social housing for the purposes of Part 2); and, for the purposes of interpretation of, and giving effect to, that section and other provisions of Part 2 commenced by this Order, sections 68 to 71 (social housing: basic principle and definitions) and sections 73 to 80 (social housing stock, and other key concepts relating to the regulator)

Section 81 (establishment of the regulator)

Sections 82 to 85 (membership and staff of regulator)

Section 86 (fundamental objectives of the regulator), in relation only to the exercise of functions of the regulator commenced by this Order

Sections 87 to 92 (procedures, committees, annual reports etc. of the regulator)

Sections 93, 95 except subsections (3) and (4), and 96 to 98 (powers of the regulator under Part 2), in relation only to the exercise of functions of the regulator commenced by this Order

Sections 99 to 104 (money)

Section 105 (co-operation with the HCA)

Section 112(3) and (4) (conditions as to eligibility for registration), for the purpose only of the regulator setting relevant criteria under subsection (3)

Section 113(5) and (6) (local authority non-registrable bodies), for the purpose only of the Secretary of State making regulations under subsection (5)

Section 114 (registration of local authorities), for the purpose only of consultation being carried out by the Secretary of State under subsection (6)

Section 116(2) (applications for entry on register)

Section 117 (fees), for the purpose only of the regulator prescribing the amount of fees and making related provision as described in subsections (3) to (8)

Section 119(2) and (7) (voluntary de-registration), for the purpose only of the regulator setting and publishing criteria for de-registration

Section 127(6) (directions), for the purpose only of consultation by the regulator with the bodies mentioned in that subsection

Section 131(5) (exempt companies)

Section 174(5) and (6) (procedure on consent to disposal of land)

Sections 192 to 198 (regulatory powers), except section 198(1)

Section 202(4), (6) and (7) (inspections: supplemental), for the purposes only of the Secretary of State authorising the regulator to charge fees for inspections, and of the regulator prescribing a scale of fees for inspections

Section 212(2) and (8) (industrial and provident society: change of rules)

Section 214(2) and (7) (companies: change of articles)

Sections 215(1) and (2), and 216 (guidance on use of intervention powers, and consultation)

Sections 275 and 276 (interpretation etc. of Part 2), so far as required for the interpretation of provisions commenced by this Order

Section 277 (consequential amendments) for the purpose of bringing into force the provisions of Schedule 9 specified in paragraph (2).

(2) The provisions of Schedule 9 referred to in paragraph (1) and coming into force on the commencement date are paragraphs 1, 2(1) and (2), 3(1) and (2), and 28(1) and (2).

(3) Paragraph (4) applies, for the purpose of giving effect to sections 112(4), 127(6), 174(5), 196(1), 197(4), and 216, until—

- (a) the regulator has set criteria for registration in exercise of the power conferred by section 112(3), and
- (b) a register of providers of social housing has been established in accordance with Chapter 3,

and in paragraph (4), the day when these conditions are satisfied is called the registration date.

(4) A requirement, in any of the provisions mentioned in paragraph (3), to consult one or more bodies appearing to the regulator (or, in the case of section 197(4), to the Secretary of State) to represent the interests of registered providers, may be satisfied instead by consulting one or more bodies so appearing to represent the interests of English bodies which may become eligible for registration on or after the registration date.

#### **Commencement of certain other provisions of the Act**

4. The following provisions of the Act shall come into force on 22nd September 2008—

- (a) section 317 (building regulations: time limit for prosecutions) and
- (b) section 321(1) (repeals), so far as it relates to the repeal of section 156(5) and (6) of the Housing Act 1985(a), and the entry relating to those subsections in Schedule 16 to the Act.

2nd September 2008

*John Healey*  
Minister of State  
Department for Communities and Local Government

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(a) 1985 c. 68.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order brings into force, on 8 September 2008, certain provisions of Parts 1 and 2 of the Housing and Regeneration Act 2008 (“the Act”). As regards Part 1, the provisions commenced (by article 2) are those relating to the establishment, constitution, objects and initial proceedings of the new Homes and Communities Agency (as to which see section 1 of the Act). As regards Part 2, the provisions commenced (by article 3) are those relating similarly to the establishment etc. of the new Office for Tenants and Social Landlords (referred to in Part 2 as “the regulator”, as to which see further section 81 of the Act), and powers to permit consultation etc. in preparation for certain actions to be taken by the regulator or the Secretary of State. Article 3 also makes transitory provision to permit consultation to be carried out before Part 2 is brought fully into force. Article 4 commences other provisions on 22 September 2008, for consistency (as regards section 317 of the Act) with other statutory regimes, and (as regards part of section 321(1) and Schedule 6) with the way in which related provisions are commenced by the Act itself.

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