

## SCHEDULES

### SCHEDULE 17

Section 179

#### REGULATION OF SOCIAL HOUSING

- 1 Part 2 of the Housing and Regeneration Act 2008 (regulation of social housing) is amended as follows.
- 2 In section 122 (restriction on gifts and distributions by non-profit registered providers to members etc) after subsection (6) insert—
  - “(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.”
- 3 (1) Section 192 (overview of Chapter 6) is amended as follows.
  - (2) In paragraph (a) for “198” substitute “198B”.
  - (3) In paragraph (d) for “complaints” substitute “the submission of information and opinions”.
- 4 (1) Section 193 (standards as to provision of social housing) is amended as follows.
  - (2) In the heading for “Provision of social housing” substitute “Standards relating to consumer matters”.
  - (3) In subsection (2) omit paragraph (c).
- 5 (1) Section 194 (management of financial and other affairs of registered providers) is amended as follows.
  - (2) In the heading for “Management” substitute “Standards relating to economic matters”.
  - (3) In subsection (1) omit “the management of”.
  - (4) After that subsection insert—
    - “(1A) Standards under subsection (1) may, in particular, require private registered providers to comply with specified rules about—
      - (a) the management of their financial and other affairs, and
      - (b) their efficiency in carrying on their financial and other affairs.”

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- (5) After subsection (2) insert—
- “(2A) The regulator may set standards for registered providers requiring them to comply with specified rules about their levels of rent (and the rules may, in particular, include provision for minimum or maximum levels of rent or levels of increase or decrease of rent).”
- 6 (1) Section 195 (code of practice relating to standards) is amended as follows.
- (2) In subsection (1)(a) after “standard” insert “under section 194”.
- (3) In subsection (2) after “standards” insert “under that section”.
- 7 In section 197(1) (directions by Secretary of State as to standards) in each of paragraphs (a) and (b) after “193” insert “or 194”.
- 8 In section 198 (supplemental provision about standards) omit subsection (1).
- 9 After that section insert—

**“198A Failure to meet standard under section 193**

- (1) Failure by a registered provider to meet a standard under section 193 (standards relating to consumers matters) is a ground for exercising a power in this Chapter or Chapter 7.
- (2) But a power to which this subsection applies may be exercised on that ground only if the regulator thinks there are reasonable grounds to suspect that—
- (a) the failure has resulted in a serious detriment to the registered provider’s tenants or potential tenants, or
  - (b) there is a significant risk that, if no action is taken by the regulator, the failure will result in a serious detriment to the registered provider’s tenants or potential tenants.
- (3) Subsection (2) applies to the powers conferred by any of the following—
- (a) section 199 (surveys);
  - (b) section 201 (inspections);
  - (c) section 206 (inquiries);
  - (d) section 220 (enforcement notices);
  - (e) section 227 (penalties);
  - (f) section 237 (compensation);
  - (g) section 247 (management tender);
  - (h) section 251 (appointment of manager).
- (4) The risk that, if no action is taken by a registered provider or the regulator, the registered provider will fail to meet a standard under section 193 is a ground for exercising a power in this Chapter.
- (5) But a power in this Chapter may be exercised on that ground only if the regulator thinks there are reasonable grounds to suspect that, if the failure occurs—
- (a) the failure will result in a serious detriment to the registered provider’s tenants or potential tenants, or

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- (b) there will be a significant risk that, if no action is taken by the regulator, the failure will result in a serious detriment to the registered provider’s tenants or potential tenants.
- (6) In considering whether to exercise a power within subsection (1) or (4) on the ground mentioned in that subsection, the regulator must have regard to any information it has received from any of the following—
- (a) the Commission for Local Administration in England;
  - (b) a housing ombudsman appointed in accordance with a scheme approved under Schedule 2 to the Housing Act 1996;
  - (c) any body appearing to the regulator to represent the interests of tenants of social housing in England;
  - (d) a county council in England, a district council, a London borough council, the Common Council of the City of London in its capacity as a local authority, the Council of the Isles of Scilly or a parish council;
  - (e) a member of any of the bodies listed in paragraph (d);
  - (f) the Greater London Authority;
  - (g) a Member of Parliament;
  - (h) a fire and rescue authority under the Fire and Rescue Services Act 2004;
  - (i) the Health and Safety Executive;
  - (j) the Secretary of State.

#### **198B Failure to meet standard under section 194**

- (1) Failure by a registered provider to meet a standard under section 194 (standards relating to economic matters) is a ground for exercising a power in this Chapter or Chapter 7 (if the power is otherwise exercisable in relation to a registered provider of that kind).
- (2) The risk that, if no action is taken by a registered provider or the regulator, the registered provider will fail to meet a standard under section 194 is a ground for exercising a power in this Chapter.”

10 (1) Section 201 (inspections) is amended as follows.

(2) For subsection (2) substitute—

“(2) The person may be a member of the regulator’s staff if the Secretary of State consents.

(2A) Consent under subsection (2) may be general or specific.”

(3) Omit subsection (3).

(4) Omit subsection (6).

(5) For subsection (7) substitute—

“(7) Arrangements for a person other than a member of the regulator’s staff to carry out an inspection may include provision about payments.”

(6) In subsection (7A) after “person” insert “other than a member of the regulator’s staff”.

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- (7) Omit subsection (8).
- 11 (1) Section 202 (inspections: supplemental) is amended as follows.
- (2) In subsection (6) omit paragraph (c).
- (3) In subsection (7)—
- (a) at the end of paragraph (a) insert “and”, and
- (b) omit paragraph (c).
- 12 In section 203 (inspector’s powers) for subsection (12) substitute—
- “(12) In this section “inspector” means a person authorised in writing by the regulator to exercise the powers under this section for the purposes of an inspection under section 201.”
- 13 Omit section 204 (performance information).
- 14 Omit section 205 (publication of performance information).
- 15 (1) Section 215 (guidance on use of intervention powers) is amended as follows.
- (2) In subsection (1)(a) for “complaints” substitute “the submission of information”.
- (3) In subsection (2) for paragraphs (a) to (c) substitute “how the regulator will deal with the submissions it receives.”
- (4) Before subsection (3) insert—
- “(2A) Guidance under subsection (1)(b) must, in particular, specify how the regulator applies and intends to apply the tests in section 198A (use of certain powers in cases of failure or potential failure to comply with standards under section 193).”
- 16 In section 216 (consultation)—
- (a) before paragraph (a) insert—
- “(za) the Secretary of State,” and
- (b) omit paragraph (d).
- 17 (1) Section 218 (exercise of enforcement powers) is amended as follows.
- (2) In subsection (1) for “This section” substitute “Subsection (2)”.
- (3) In subsection (2) omit paragraphs (b) and (c).
- (4) After that subsection insert—
- “(3) Subsection (4) applies where the regulator is making a decision in relation to—
- (a) the exercise, on a ground other than one specified in section 198A(1) (failure to meet standard under section 193), of a power under this Chapter that is listed in section 198A(3), or
- (b) the exercise of a power under this Chapter that is not listed in section 198A(3).
- (4) The regulator shall consider—
- (a) whether the failure or other problem concerned is serious or trivial;

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(b) whether the failure or other problem is a recurrent or isolated incident.”

18 In section 320 of the Housing and Regeneration Act 2008 (orders and regulations)

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- (a) in subsection (3)(a) (orders subject to approval in draft by each House of Parliament), after “114” insert “, 122”, and
  - (b) in subsection (7)(a) (orders subject to annulment by either House of Parliament, and exceptions from that requirement), after “114” insert “, 122”.