

# HOUSING (WALES) MEASURE 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: Registered Social Landlords**

#### *Chapter 4 – Enforcement*

#### **Penalty**

#### *Section 60 - Warning*

136. This section inserts a new section 50K into the 1996 Act which sets out a warning procedure which must be followed before a penalty notice can be imposed. The Welsh Ministers must give a RSL a notice, called a “pre-penalty warning”, which must specify the grounds on which they think a penalty could be imposed, warn the RSL that the Welsh Ministers are considering imposing a penalty, include any indication the Welsh Ministers can give of the likely amount, and explain the RSL’s right to make representations (section 50L of the 1996 Act), the enforcement action that may be taken in relation to penalties (section 50M of the 1996 Act) and the RSL’s right to appeal against the penalty (section 50N of the 1996 Act).
137. Subsection (2) requires the Welsh Ministers to send any other person that it thinks appropriate, a copy of the pre-penalty warning. In deciding to whom it would be appropriate to send a copy, they must have particular regard to any person who provided information which has led to the giving of the pre-penalty warning.
138. Subsection (3) requires the Welsh Ministers to refer to section 6A of the 1996 Act (inserted by section 41 of this Measure and which permits RSL’s to offer voluntary undertakings) and indicate in its pre-penalty warning whether the Welsh Ministers would accept a voluntary undertaking instead of, or in mitigation of, a penalty.
139. Subsection (4) allows the Welsh Ministers to combine the pre-penalty warning with warnings about the use of its other enforcement powers.