

HOUSING (WALES) MEASURE 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Registered Social Landlords

Chapter 5- Miscellaneous and General Provisions

196. Sections 83 to 88 make various miscellaneous and general amendments to the 1996 Act.

Section 83 - Insolvency, etc. of registered social landlord: appointment of interim manager

197. This section inserts a new section 43A into the 1996 Act which gives the Welsh Ministers power to appoint an interim manager to manage a RSL's affairs during a moratorium. Such a moratorium will come into being where any of the steps mentioned in section 41 of the 1996 Act (relating to insolvency etc.) are taken.
198. Subsection (2) of new section 43A of the 1996 Act enables an interim manager to be appointed in relation to the RSL's affairs generally, or in relation to specific affairs.
199. Subsection (3) requires the appointment to be made on terms and conditions which must be specified in, or determined in accordance with, the appointment.
200. Subsection (4) provides that an interim manager is to have any power specified in the appointment, and any other power in relation to the RSL's affairs required by the manager for the purposes specified in the appointment. However, subsection (6) provides that an interim manager may not dispose of land or grant security over land.
201. Subsections (7) and (8) enable the Welsh Ministers to give directions to the interim manager and to amend or revoke such directions.
202. Subsection (9) provides that the appointment of an interim manager comes to an end at the end of the moratorium, at the time when proposals as to the future ownership and management of the RSL is agreed, or on a date specified in the appointment, whichever is the earliest. If a person ceases to be an interim manager before that end date (for example, due to illness or death), subsection (10) enables the Welsh Ministers to appoint a new interim manager.

Section 84 - Removal of officers

203. This section amends paragraphs 4 and 5 of Schedule 1 to the 1996 Act so as to expand the powers of the Welsh Ministers in relation to the removal of the officers of a RSL. The Welsh Ministers are currently able to remove only certain types of officers (for example, the directors and trustees of a RSL which is a registered charity). The amendments will enable the Welsh Ministers to remove any person who is an "officer" of a RSL within the meaning given by section 59 of the 1996 Act.
204. The Welsh Ministers may remove an officer on grounds such as bankruptcy, disqualification under the Company Directors Disqualification Act 1986 or Charities Act 1983, or failure to act.

Section 85 - Appointment of new officers

205. This section makes amendments to paragraphs 6, 7 and 8 of Schedule 1 to the 1996 Act so as to expand the powers of the Welsh Ministers to appoint officers of an RSL. The Welsh Ministers are currently able to appoint only certain types of officers (for example, the directors and trustees of a RSL which is a registered charity). The amendments will enable the Welsh Ministers to appoint any kind of “officer” within the meaning given to that term by section 59 to the 1996 Act.
206. The Welsh Ministers may appoint a new officer of a RSL where they have removed an officer, where there are no officers in place for a RSL, or where they consider that such an appointment is necessary for the proper management of a RSL’s affairs.

Section 86 - Charities that have “received public assistance”

207. This section amends section 58 of the 1996 Act (definitions relating to charities) by inserting a new subsection (1A). This new subsection defines the circumstances in which a registered charity will be regarded as having ‘received public assistance’ for the purposes of the Part 1 of the 1996 Act. These include circumstances in which the charity has been given financial assistance for privately let accommodation under section 24 of the Local Government Act 1988, or has had housing transferred to it under section 34 of the 1985 Act or section 135 of the Leasehold Reform, Housing and Urban Development Act 1993, or has received a grant or loan under various provisions, including social housing grant under section 18 of the 1996 Act.

Section 87 - Minor definitions

208. This section amends section 63 of the 1996 Act (minor definitions applying to Part 1 of that Act) by inserting definitions of ‘action’, ‘misconduct’ and ‘representations’ to the list of definitions in that section.

Section 88 - Minor and consequential amendments

209. This section introduces the schedule of minor and consequential amendments.