



Housing (Wales) Measure 2011

2011 nawm 5

PART 2

REGISTERED SOCIAL LANDLORDS

CHAPTER 3

REGULATION

Survey and examination

42 Failure to give notice to occupiers

- (1) Amend section 37 of the Housing Act 1996 (power to enter premises to carry out survey and examination) as follows.
- (2) In subsection (3)—
 - (a) the second sentence of the existing provision becomes subsection (3A),
 - (b) in subsection (3A), for “who fails to do so” substitute “who fails, without reasonable excuse, to give the required notice in relation to premises in Wales”, and
 - (c) after subsection (3A) insert—

“(3B) A landlord who fails to give the required notice in relation to premises in England commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”
- (3) In subsection (4), for “(3)” substitute “(3A) or (3B)”.

*Inspection***43 Inspection: overview and application**

After Part 3 of Schedule 1 to the Housing Act 1996 insert—

“PART 3A**INSPECTION***Overview and application*

- 19B (1) This Part provides for the inspection of a registered social landlord’s affairs.
- (2) But this Part does not apply in relation to affairs relating only to the provision of housing in England.”

44 Inspection

After paragraph 19B of Schedule 1 to the Housing Act 1996 insert—

“Inspection

- 19C (1) The Welsh Ministers—
- (a) may inspect a registered social landlord’s affairs, or
 - (b) may arrange for another person to do so.
- (2) An inspection may be general or specific.
- (3) If the Welsh Ministers arrange for a person to carry out an inspection, they may direct that person to discontinue it.
- (4) If the Welsh Ministers arrange for a person to carry out an inspection, the arrangements may include (among other things) provision about payments.”

45 Inspection: supplemental

After paragraph 19C of Schedule 1 to the Housing Act 1996 insert—

“Inspection: supplemental

- 19D (1) The person carrying out the inspection must produce a written report.
- (2) The Welsh Ministers—
- (a) must give the registered social landlord a copy of the report, and
 - (b) may publish the report and related information.
- (3) If the Welsh Ministers have arranged for a person to carry out the inspection, that person may publish the report and related information (whether or not the Welsh Ministers have done so).

Status: This is the original version (as it was originally enacted).

- (4) If a registered social landlord is inspected, the Welsh Ministers may charge a fee.
- (5) A registered social landlord must pay any fee charged to—
 - (a) the person with whom the Welsh Ministers have made an arrangement to carry out an inspection (if any), or
 - (b) the Welsh Ministers.
- (6) The Welsh Ministers may direct a registered social landlord to pay the fee to one of those persons.
- (7) If a fee is paid to a person other than the Welsh Ministers, that person must notify the Welsh Ministers about the payment.”

46 Inspector’s powers to require provision of documents or information

After paragraph 19D of Schedule 1 to the Housing Act 1996 insert—

“Inspector’s powers to require provision of documents or information

- 19E (1) An inspector may by notice require a person to provide specified documents or information.
- (2) A requirement may specify—
 - (a) the form and manner in which a document or information is to be provided (which may include the provision of a legible copy of information stored electronically);
 - (b) when and where it is to be provided.
 - (3) The inspector may copy or record documents or information provided.
 - (4) Failure to comply with a requirement without reasonable excuse is an offence.
 - (5) Intentionally altering, suppressing or destroying a document or information to which a requirement relates is an offence.
 - (6) If a person fails to comply with a requirement the High Court may, on an application by the inspector, make an order for the purpose of remedying the failure.
 - (7) In this paragraph “inspector” means—
 - (a) the Welsh Ministers, or
 - (b) a person authorised in writing by the Welsh Ministers to exercise the powers under this paragraph for the purpose of an inspection under paragraph 19C.”

47 Inspector’s powers to require provision of documents or information: supplemental

After paragraph 19E of Schedule 1 to the Housing Act 1996 insert—

“Inspector’s powers to require provision of documents or information: supplemental

- 19F (1) A requirement does not require a person to disclose anything which the person would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court.
- (2) A requirement does not require a banker to breach a duty of confidentiality owed to a person who is not—
- (a) the registered social landlord to whose affairs or activities the document or information relates,
 - (b) a subsidiary of that landlord, or
 - (c) an associate of that landlord.
- (3) A person guilty of an offence under paragraph 19E(4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A person guilty of an offence under paragraph 19E(5) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to—
 - (i) imprisonment for a term not exceeding two years,
 - (ii) a fine, or
 - (iii) both.
- (5) Proceedings for an offence under paragraph 19E(4) or (5) may be brought only by or with the consent of—
- (a) the Welsh Ministers, or
 - (b) the Director of Public Prosecutions.”

48 Inspector’s powers of entry and inspection

After paragraph 19F of Schedule 1 to the Housing Act 1996 insert—

“Inspector’s powers of entry and inspection

- 19G (1) An inspector may at any reasonable time—
- (a) enter premises occupied by the registered social landlord which is being inspected, and
 - (b) inspect, copy or take away documents found there.
- (2) But the inspector may not enter residential accommodation (whether the residential accommodation is the whole of, or only part of, premises occupied by the registered social landlord).
- (3) The reference to documents found on the premises includes (but is not limited to)—
- (a) documents stored on computers or electronic storage devices on the premises, and
 - (b) documents stored elsewhere which can be accessed by computers on the premises.

Status: This is the original version (as it was originally enacted).

- (4) The power to inspect documents includes (but is not limited to) the power to inspect any computer or electronic storage device on which they have been created or stored.
- (5) An inspector may require any person on the premises to provide such facilities or assistance as the inspector reasonably requests.
- (6) For the purposes of sub-paragraphs (3) and (4) an inspector may require any person having charge of a computer to provide any assistance that the inspector reasonably requests.
- (7) It is an offence for a person without reasonable excuse to obstruct an inspector exercising the powers conferred by sub-paragraphs (1) to (6).
- (8) A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) Proceedings for an offence may be brought only by or with the consent of—
 - (a) the Welsh Ministers, or
 - (b) the Director of Public Prosecutions.
- (10) In this paragraph—
 - “inspector” means—
 - (a) the Welsh Ministers, or
 - (b) a person authorised in writing by the Welsh Ministers to exercise the powers under this paragraph for the purpose of an inspection under paragraph 19C;
 - “residential accommodation” means accommodation of any description (including, but not limited to, a dwelling or residential accommodation in a hostel) that is occupied by one or more persons as a permanent or temporary place of residence (whether or not it is also occupied by any person for any other purpose).”

Inquiry

49 Extraordinary audit for purposes of inquiry

In paragraph 22 of Schedule 1 to the Housing Act 1996 (extraordinary audit for purposes of inquiry), in sub-paragraph (4), for “the Welsh Ministers” substitute “the registered social landlord in respect of which the inquiry is being conducted”.