



# Housing Act 2004

## 2004 CHAPTER 34

### PART 6

#### OTHER PROVISIONS ABOUT HOUSING

### CHAPTER 5

#### MISCELLANEOUS

#### *Overcrowding*

#### 216 **Overcrowding**

- (1) The appropriate national authority may by order make such provision as it considers appropriate for and in connection with—
  - (a) determining whether a dwelling is overcrowded for the purposes of Part 10 of the Housing Act 1985 (c. 68) (overcrowding);
  - (b) introducing for the purposes of Chapter 3 of Part 4 of this Act a concept of overcrowding similar to that applying for the purposes of Part 10 (and accordingly removing the discretion of local housing authorities to decide particular issues arising under those sections);
  - (c) securing that overcrowding in premises to which Chapter 3 of Part 4 of this Act would otherwise apply, or any description of such premises, is regulated only by provisions of Part 10.
- (2) An order under this section may, in particular, make provision for regulating the making by local housing authorities of determinations as to whether premises are overcrowded, including provision prescribing—
  - (a) factors that must be taken into account by such authorities when making such determinations;
  - (b) the procedure that is to be followed by them in connection with making such determinations.

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- (3) An order under this section may modify any enactment (including this Act).
- (4) In this section—
  - (a) any reference to Part 10 of the Housing Act 1985 includes a reference to Part 10 as modified by an order under this section; and
  - (b) “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

### *Energy efficiency*

#### **217 Energy efficiency of residential accommodation: England**

- (1) The Secretary of State must take reasonable steps to ensure that by 2010 the general level of energy efficiency of residential accommodation in England has increased by at least 20 per cent compared with the general level of such energy efficiency in 2000.
- (2) Nothing in this section affects the duties of the Secretary of State under section 2 of the Sustainable Energy Act 2003 (c. 30) (energy efficiency aim in respect of residential accommodation in England).
- (3) In this section “residential accommodation” has the meaning given by section 1 of the Home Energy Conservation Act 1995 (c. 10).

### *Registered social landlords*

#### **218 Amendments relating to registered social landlords**

Schedule 11 (which makes amendments relating to registered social landlords) has effect.

#### **219 Disclosure of information to registered social landlords for the purposes of section 1 of the Crime and Disorder Act 1998**

In section 115(2) of the Crime and Disorder Act 1998 (c. 37) after paragraph (d) insert—

- “(da) a person registered under section 1 of the Housing Act 1996 as a social landlord;”.

### *Other provisions relating to social housing*

#### **220 Additional power to give grants for social housing**

After section 27 of the Housing Act 1996 (c. 52) insert—

### *“Grants to bodies other than registered social landlords*

#### **27A Grants to bodies other than registered social landlords**

- (1) The Relevant Authority may make grants under this section to persons other than registered social landlords.

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- (2) Grants under this section are grants for any of the following purposes—
  - (a) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of—
    - (i) under equity percentage arrangements, or
    - (ii) on shared ownership terms;
  - (b) constructing houses to be disposed of—
    - (i) under equity percentage arrangements, or
    - (ii) on shared ownership terms;
  - (c) providing loans to be secured by mortgages to assist persons to acquire houses for their own occupation;
  - (d) providing, constructing or improving houses to be kept available for letting;
  - (e) providing, constructing or improving houses for letting that are to be managed by such registered social landlords, and under arrangements containing such terms, as are approved by the Relevant Authority;
  - (f) such other purposes as may be specified in an order under subsection (3).
- (3) The Secretary of State may by order make such provision in connection with the making of grants under this section as he considers appropriate.
- (4) An order under subsection (3) may, in particular, make provision—
  - (a) defining “equity percentage arrangements” for the purposes of this section;
  - (b) specifying or describing the bodies from whom loans may be obtained by persons wishing to acquire houses for their own occupation;
  - (c) dealing with the priority of mortgages entered into by such persons;
  - (d) specifying purposes additional to those mentioned in subsection (2)(a) to (e).
- (5) As regards grants made by the Housing Corporation, an order under subsection (3) may also require the imposition of conditions in connection with such grants, and for this purpose may—
  - (a) prescribe conditions that are to be so imposed;
  - (b) prescribe matters about which conditions are to be so imposed and any particular effects that such conditions are to achieve.
- (6) The Relevant Authority shall specify in relation to grants under this section—
  - (a) the procedure to be followed in relation to applications for grant,
  - (b) the circumstances in which grant is or is not to be payable,
  - (c) the method for calculating, and any limitations on, the amount of grant, and
  - (d) the manner in which, and the time or times at which, grant is to be paid.
- (7) If, by virtue of subsection (5), an order under subsection (3) requires conditions to be imposed by the Housing Corporation in connection with a grant to a person under this section, the Corporation in making the grant—
  - (a) must provide that the grant is conditional on compliance by the person with such conditions as are required by the order; and

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- (b) if it exercises its power to impose conditions under subsection (8), must not impose any that are inconsistent with the requirements of the order.
- (8) In making a grant to a person under this section the Relevant Authority may provide that the grant is conditional on compliance by the person with such conditions as the Authority may specify.
- (9) The conditions that may be so specified include conditions requiring the payment to the Relevant Authority in specified circumstances of a sum determined by the Authority (with or without interest).
- (10) An order under subsection (3) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section—
  - “disposed of on shared ownership terms” has the meaning given by section 2(6);
  - “letting” includes the grant of a licence to occupy.

### **27B Transfer of property funded by grants under section 27A**

- (1) Where—
  - (a) any grant is paid or payable to any person under section 27A, and
  - (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, another person who is not a registered social landlord,

this Part shall have effect, in relation to times falling after that time, as if the grant, or such proportion of it as is determined or specified under subsection (4), had been paid or (as the case may be) were payable to that other person under section 27A.
- (2) Where—
  - (a) any amount is paid or payable to any person by way of grant under section 27A, and
  - (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, a registered social landlord,

this Part shall have effect, in relation to times falling after that time, as if the grant, or such proportion of it as is determined or specified under subsection (4), had been paid or (as the case may be) were payable to that other person under section 18.
- (3) In such a case, the relevant section 18 conditions accordingly apply to that grant or proportion of it, in relation to times falling after that time, in place of those specified under section 27A(8).
  - “The relevant section 18 conditions” means such conditions specified under section 18(3) as would have applied at the time of the making of the grant if it had been made under section 18 to a registered social landlord.
- (4) The proportion mentioned in subsection (1) or (2) is that which, in the circumstances of the particular case—

- (a) the Relevant Authority, acting in accordance with such principles as it may from time to time determine, may specify as being appropriate, or
- (b) the Relevant Authority may determine to be appropriate.”

## **221 Extension of right to acquire**

After section 16 of the Housing Act 1996 (c. 52) insert—

### **“16A Extension of section 16 to dwellings funded by grants under section 27A**

- (1) Section 16 applies in relation to a dwelling (“a funded dwelling”) provided or acquired wholly or in part by means of a grant under section 27A (grants to bodies other than registered social landlords) with the following modifications.
- (2) In section 16(1) the reference to a registered social landlord includes a reference to any person to whom a grant has been paid under section 27A.
- (3) In section 16(2) and (4) any reference to section 18 includes a reference to section 27A.
- (4) For the purposes of section 16 a funded dwelling is to be regarded as having remained within the social rented sector in relation to any relevant time if, since it was acquired or provided as mentioned in subsection (1) above, it was used—
  - (a) by the recipient of the grant mentioned in that subsection, or
  - (b) if section 27B applies in relation to the grant, by each person to whom the grant was, or is treated as having been, paid,exclusively for the purposes for which the grant was made or any other purposes agreed to by the Relevant Authority.
- (5) In subsection (4) “relevant time” means a time when the dwelling would not be treated as being within the social rented sector by virtue of section 16(3).”

## **222 Rights of pre-emption in connection with assured tenancies**

- (1) Section 5 of the Housing Act 1988 (c. 50) (security of tenure for assured tenants) is amended as follows.
- (2) After subsection (5) (certain obligations etc. of tenant to be unenforceable) insert—

“(5A) Nothing in subsection (5) affects any right of pre-emption—

  - (a) which is exercisable by the landlord under a tenancy in circumstances where the tenant indicates his intention to dispose of the whole of his interest under the tenancy, and
  - (b) in pursuance of which the landlord would be required to pay, in respect of the acquisition of that interest, an amount representing its market value.

“Dispose” means dispose by assignment or surrender, and  
“acquisition” has a corresponding meaning.”
- (3) The amendment made by subsection (2) does not apply in relation to any right of pre-emption granted before the day on which this section comes into force.

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## 223 Allocation of housing accommodation by local authorities

In section 167(2)(d) of the Housing Act 1996 (c. 52) (people to whom preference is to be given in allocating housing accommodation) after “medical or welfare grounds” insert “(including grounds relating to a disability)”.

### *Disabled facilities grant*

## 224 Disabled facilities grant: caravans

- (1) The Housing Grants, Construction and Regeneration Act 1996 (c. 53) is amended as follows.
- (2) In section 1(1)(c)(i) (grants in relation to qualifying park homes) for “qualifying park homes” substitute “caravans”.
- (3) In section 19(1) (applications for grants) for paragraph (c) substitute—
  - “(c) that the applicant is an occupier (alone or jointly with others) of a qualifying houseboat or a caravan and, in the case of a caravan, that at the time the application was made the caravan was stationed on land within the authority’s area.”
- (4) In section 22A (certificates required in case of occupier’s application)—
  - (a) for “qualifying park home” in subsection (2)(b) and (3)(a) and (b) substitute “caravan”, and
  - (b) for “pitch” in subsection (3)(a) substitute “land”.
- (5) In the following provisions for “qualifying park home” substitute “caravan”—
  - (a) section 23(1)(a)(i), (b)(i), (i) and (k) (purposes of grant);
  - (b) section 24(3)(b)(i) (approval of application);
  - (c) section 29(3) (restriction on grants for works already begun);
  - (d) section 41(1)(b) (change of circumstances).
- (6) In section 57(2)(a) (power of authority to carry out works)—
  - (a) for “qualifying park home”, in each place where it occurs, substitute “caravan”, and
  - (b) for “pitch” in sub-paragraph (i) substitute “land”.
- (7) In section 58 (minor definitions for the purposes of Chapter 1 of Part 1)—
  - (a) before the definition of “common parts” insert—
    - ““caravan”—
    - (a) means a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 (disregarding the amendment made by section 13(2) of the Caravan Sites Act 1968); and
    - (b) includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;” and
  - (b) for “qualifying park home” in the definition of “premises” substitute “caravan”, and
  - (c) omit the definition of “qualifying park home”.
- (8) In section 59 (index of defined expressions)—

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(a) before the entry relating to “certified date” insert—

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“caravan section 58”; and

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(b) omit the entry relating to “qualifying park home”.

- (9) The amendments made by this section do not apply in relation to any application for a disabled facilities grant under the Housing Grants, Construction and Regeneration Act 1996 (c. 53) that is made before the day on which this section comes into force.

### *Accommodation needs of gypsies and travellers*

## **225 Duties of local housing authorities: accommodation needs of gypsies and travellers**

- (1) Every local housing authority must, when undertaking a review of housing needs in their district under section 8 of the Housing Act 1985 (c. 68), carry out an assessment of the accommodation needs of gypsies and travellers residing in or resorting to their district.
- (2) Subsection (3) applies where a local housing authority are required under section 87 of the Local Government Act 2003 (c. 26) to prepare a strategy in respect of the meeting of such accommodation needs.
- (3) The local authority who are that local housing authority must take the strategy into account in exercising their functions.
- “Functions” includes functions exercisable otherwise than as a local housing authority.
- (4) A local housing authority must have regard to any guidance issued under section 226 in—
- (a) carrying out such an assessment as mentioned in subsection (1), and
- (b) preparing any strategy that they are required to prepare as mentioned in subsection (2).
- (5) In this section—
- (a) “gypsies and travellers” has the meaning given by regulations made by the appropriate national authority;
- (b) “accommodation needs” includes needs with respect to the provision of sites on which caravans can be stationed; and
- (c) “caravan” has the same meaning as in Part 1 of the Caravan Sites and Control of Development Act 1960.

## **226 Guidance in relation to section 225**

- (1) The appropriate national authority may issue guidance to local housing authorities regarding—
- (a) the carrying out of assessments under section 225(1), and
- (b) the preparation of any strategies that local housing authorities are required to prepare as mentioned in section 225(2).

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- (2) Before giving guidance under this section, or revising guidance already given, the Secretary of State must lay a draft of the proposed guidance or alterations before each House of Parliament.
- (3) The Secretary of State must not give or revise the guidance before the end of the period of 40 days beginning with the day on which the draft is laid before each House of Parliament (or, if copies are laid before each House of Parliament on different days, the later of those days).
- (4) The Secretary of State must not proceed with the proposed guidance or alterations if, within the period of 40 days mentioned in subsection (3), either House resolves that the guidance or alterations be withdrawn.
- (5) Subsection (4) is without prejudice to the possibility of laying a further draft of the guidance or alterations before each House of Parliament.
- (6) In calculating the period of 40 days mentioned in subsection (3), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

*Annual reports by local housing authorities*

**227 Removal of duty on local housing authorities to send annual reports to tenants etc.**

Omit section 167 of the Local Government and Housing Act 1989 (c. 42) (duty of local housing authorities to send annual reports to tenants).

*Social Housing Ombudsman for Wales*

**228 Social Housing Ombudsman for Wales**

- (1) After subsection (6) of section 51 of the Housing Act 1996 (c. 52) (schemes for investigation of housing complaints) insert—

“(7) This section shall not apply in relation to social landlords in Wales (within the meaning given by section 51C).”

- (2) After that section insert—

**“51A Social Housing Ombudsman for Wales**

- (1) For the purpose of the investigation of complaints made about social landlords in Wales, there shall be an office of Social Housing Ombudsman for Wales or Ombwdsmon Tai Cymdeithasol Cymru.
- (2) The person who is the Local Commissioner for Wales shall also be the Social Housing Ombudsman for Wales.
- (3) If there is more than one person who is a Local Commissioner for Wales, the Commission for Local Administration in Wales shall designate one of them to be the Social Housing Ombudsman for Wales.



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- (4) If a person who is the Social Housing Ombudsman for Wales ceases to be a Local Commissioner for Wales, he shall cease to be the Social Housing Ombudsman for Wales.
- (5) The power under section 23(6) of the Local Government Act 1974 to remove a Local Commissioner for Wales from office on grounds of incapacity or misbehaviour includes a power to remove him from that office on grounds of incapacity or misbehaviour which are exclusively or partly relevant to the office of Social Housing Ombudsman for Wales.
- (6) “Local Commissioner for Wales” shall be construed in accordance with section 23 of the Local Government Act 1974.
- (7) Schedule 2A (which contains further provision about the Social Housing Ombudsman for Wales) shall have effect.

### **51B Investigation of complaints**

- (1) The National Assembly for Wales may by regulations make provision about the investigation by the Social Housing Ombudsman for Wales of complaints made about social landlords in Wales.
- (2) Regulations under subsection (1) may in particular make provision about—
  - (a) the matters about which complaints may be made;
  - (b) the grounds on which a matter may be excluded from investigation, including that the matter is the subject of court proceedings or was the subject of court proceedings where judgment on the merits was given;
  - (c) the description of individual who may make a complaint;
  - (d) a power of the Social Housing Ombudsman for Wales to investigate any complaint duly made (whether the complaint is subsequently withdrawn or not), and, where he investigates, the making of a determination;
  - (e) a power of the Social Housing Ombudsman for Wales to propose alternative methods of resolving a dispute;
  - (f) the powers of the Social Housing Ombudsman for Wales for the purposes of his investigations (including powers to consult and co-operate with other persons), and the procedure to be followed in the conduct of investigations;
  - (g) the powers of the Social Housing Ombudsman for Wales on making a determination, which may include power—
    - (i) to make recommendations as to action to be taken to remedy any injustice to the person aggrieved and to prevent any similar injustice being caused in the future,
    - (ii) to make orders with regard to the payment of compensation or to order that a person is not to exercise, or require the performance of, certain rights or obligations, and
    - (iii) to publish statements, or to make orders requiring the publication of statements, that a person has failed to comply with an order mentioned in sub-paragraph (ii);
  - (h) the manner in which determinations are to be—

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- (i) communicated to the complainant and the person against whom the complaint was made; and
  - (ii) published (with or without excisions).
- (3) Regulations under this section may contain such supplementary, incidental, consequential or transitional provisions and savings as the National Assembly for Wales considers appropriate.
- (4) Regulations under this section may make different provision for different cases or descriptions of case.
- (5) Regulations under this section shall be made by statutory instrument.

### **51C Meaning of “social landlord in Wales”**

- (1) “Social landlord in Wales” means—
- (a) a body which is registered as a social landlord in the register maintained by the National Assembly for Wales under section 1 of this Act;
  - (b) a body which was at any time registered as a social landlord in that register (or in the register previously maintained under that section by the Secretary of State or Housing for Wales); and
  - (c) any other body which was at any time registered with Housing for Wales, the Secretary of State or the National Assembly for Wales and which owns or manages publicly-funded dwellings.
- (2) In subsection (1)(c) a “publicly-funded” dwelling means a dwelling which was—
- (a) provided by means of a grant under—
    - (i) section 18 of this Act (social housing grant); or
    - (ii) section 50 of the Housing Act 1988, section 41 of the Housing Associations Act 1985, or section 29 or 29A of the Housing Act 1974 (housing association grant); or
  - (b) acquired on a disposal by a public sector landlord.
- (3) The National Assembly for Wales may by order made by statutory instrument add to or amend the descriptions of landlords who are to be treated as social landlords in Wales.
- (4) Before making any such order the National Assembly for Wales shall consult such persons as it considers appropriate.
- (5) Any such order may contain such supplementary, incidental, consequential or transitional provisions and savings as the National Assembly for Wales considers appropriate.”
- (3) After Schedule 2 to that Act there is inserted, as Schedule 2A, the Schedule set out in Schedule 12 to this Act.
- (4) In Schedule 4 to the Local Government Act 1974 (c. 7), in paragraph 1(3) (validity of acts despite disqualification for being appointed as, or for being, a Local Commissioner) after “office” there is inserted “or in the office of Social Housing Ombudsman for Wales”.