



# Housing and Regeneration Act 2008

## 2008 CHAPTER 17

### PART 1

#### THE HOMES AND COMMUNITIES AGENCY

### CHAPTER 5

#### SUPPLEMENTARY

##### *Certain supervisory powers of the Secretary of State*

#### **46 Guidance by the Secretary of State**

- (1) The Secretary of State may give guidance to the HCA as to the exercise of any of its functions.
- (2) Before giving guidance under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (3) The Secretary of State must publish any guidance given under this section as soon as reasonably practicable after giving it.
- (4) The Secretary of State may revoke guidance given under this section.
- (5) The Secretary of State must—
  - (a) consult, before revoking guidance under this section, such persons as the Secretary of State considers appropriate, and
  - (b) publish the fact that the guidance has been revoked as soon as reasonably practicable after the revocation.
- (6) The HCA must, in exercising its functions, have regard to any guidance for the time being in force under this section.

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- (7) References in this section to giving guidance include references to giving guidance by varying existing guidance.

#### **47 Directions by the Secretary of State**

- (1) The Secretary of State may give the HCA general or specific directions as to the exercise of any of its functions.
- (2) The Secretary of State must publish any directions given by the Secretary of State under this Part as soon as reasonably practicable after giving them.
- (3) The Secretary of State—
  - (a) may revoke any directions given by the Secretary of State under this Part, and
  - (b) must publish the fact that the directions have been revoked as soon as reasonably practicable after the revocation.
- (4) The HCA must comply with any directions of the Secretary of State in force under this Part.
- (5) Subsections (2) and (3)(b) do not apply to directions given under section 22 or paragraph 7 of Schedule 1; and this section does not apply to directions given under Schedule 4.
- (6) References in this Part to the Secretary of State giving directions include references to the Secretary of State giving directions by varying existing directions.

#### **48 Consents of the Secretary of State**

- (1) Any consent of the Secretary of State required under this Part may be given—
  - (a) unconditionally or subject to conditions, and
  - (b) generally or specifically.
- (2) The Secretary of State may vary or revoke any such consent except in the case of anything already done, or agreed to be done, on the authority of it.
- (3) A variation or revocation under subsection (2) does not have effect until the Secretary of State has served notice of it on the HCA or (as the case may be) the other person to whom the consent is given.

#### *Abolition of existing bodies*

#### **49 Abolition of Urban Regeneration Agency**

The Urban Regeneration Agency shall cease to exist on such day as the Secretary of State may by order appoint.

#### **50 Abolition of the Commission for the New Towns**

- (1) The Commission for the New Towns shall cease to exist on such day as the Secretary of State may by order appoint.
- (2) Schedule 5 (which transfers Welsh functions of the Commission to the Welsh Ministers and makes other amendments of the New Towns Act 1981 (c. 64)) has effect.

## **51 Property etc. transfers to the HCA and the Welsh Ministers**

- (1) The Secretary of State may make one or more schemes for—
  - (a) the transfer to the HCA of designated property, rights or liabilities of—
    - (i) the Urban Regeneration Agency,
    - (ii) the Commission for the New Towns,
    - (iii) a regional development agency (within the meaning of the Regional Development Agencies Act 1998 (c. 45)), or
    - (iv) a Minister of the Crown, or
  - (b) the transfer to the Welsh Ministers of designated property, rights or liabilities of—
    - (i) the Urban Regeneration Agency, or
    - (ii) the Commission for the New Towns.
- (2) On the transfer date, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.
- (3) Schedule 6 (which makes further provision about the making of schemes) has effect.
- (4) In this section and in Schedule 6—
  - “designated” in relation to a scheme, means specified in, or determined in accordance with, the scheme,
  - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26),
  - “the transfer date” means a date specified by a scheme as the date on which the scheme is to have effect.
- (5) Schedule 7 makes provision about the tax implications of schemes under this section (and schemes under section 65).

## **52 Role of the HCA in relation to former CNT functions**

- (1) The HCA must, so far as practicable, exercise its powers in relation to—
  - (a) any property, rights or liabilities of the Commission for the New Towns transferred to it by virtue of section 51 and Schedule 6,
  - (b) any property, rights or liabilities of a new town development corporation transferred to it by virtue of section 41 of, and Schedule 10 to, the New Towns Act 1981 (c. 64),
  - (c) any undertaking, or part of an undertaking, of an urban development corporation transferred to it by virtue of an agreement under section 165 of the Local Government, Planning and Land Act 1980 (c. 65), or
  - (d) any property, rights or liabilities of an urban development corporation transferred to it by virtue of an order under section 165B of that Act,for the purposes of the objects mentioned in section 2(1) or for purposes incidental to those purposes.
- (2) But subsection (1) does not apply if the HCA does not consider it appropriate to exercise its powers in this way having regard, in particular, to the purposes for which the transferred property was held by the Commission for the New Towns, the new town development corporation or (as the case may be) the urban development corporation.

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- (3) In such a case, the HCA must exercise its powers in relation to the transferred property in such a way as it considers appropriate having regard, in particular, to—
- (a) the objects mentioned in section 2(1), and
  - (b) the purposes for which the transferred property was held by the body concerned,
- and the references in this Part to the objects of the HCA are to be read accordingly.
- (4) In this section—
- “new town development corporation” means a development corporation established under section 3 of the New Towns Act 1981 (c. 64),
- “transferred property” means any property, rights or liabilities, or any undertaking or part of an undertaking, falling within paragraphs (a) to (d) of subsection (1) above.

### **53 Interim arrangements**

- (1) The Secretary of State may by notice require the Urban Regeneration Agency or the Commission for the New Towns to provide staff, premises, facilities or other assistance on a temporary basis to—
- (a) the HCA, or
  - (b) the Welsh Ministers.
- (2) In paragraph 1(1) of Schedule 17 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) (constitution of the Urban Regeneration Agency: number of members), for “six” substitute “two”.
- (3) This section is without prejudice to the power of the Secretary of State under section 322(1).

*Other*

### **54 Validity of transactions**

- (1) A transaction between a person and the HCA is not invalid merely because of a failure by the HCA to exercise its powers for the purposes mentioned in sections 3 and 4(2).
- (2) A transaction between a person and the HCA is not invalid merely because it was carried out in contravention of a direction under section 47.
- (3) A transaction between a person and a subsidiary of the HCA is not invalid merely because of a failure by the HCA to comply with section 41(1) or (2).
- (4) A person entering into a transaction with the HCA or a subsidiary of the HCA need not be concerned as to whether—
- (a) there has been a failure of the kind mentioned in subsection (1) or (3), or
  - (b) a direction of the kind mentioned in subsection (2) has been given or complied with.
- (5) A disposal of land by the HCA is not invalid merely because any consent required by section 10(1) or (3) has not been given.
- (6) A person dealing with—

- (a) the HCA, or
  - (b) a person claiming under the HCA,
- in relation to any land need not be concerned as to whether any consent required by section 10(1) or (3) has been given.

## 55 Notices

- (1) Any notice required or authorised under this Part to be served on any person may be served by—
  - (a) delivering it to the person,
  - (b) leaving it at the person's proper address, or
  - (c) sending it by post to the person at that address.
- (2) Any such notice may—
  - (a) in the case of a body corporate, be served in accordance with subsection (1) on an officer of the body, and
  - (b) in the case of a partnership, be served in accordance with subsection (1) on a partner or a person having the control or management of the partnership business.
- (3) For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of any person on whom a notice is to be served is the person's last known address except as follows.
- (4) For the purposes of this section and section 7 of the Act of 1978 in its application to this section, the proper address is—
  - (a) in the case of service on a body corporate or an officer of the body, the address of the registered or principal office of the body, and
  - (b) in the case of service on a partnership, a partner or a person having the control or management of the partnership business, the address of the principal office of the partnership.
- (5) For the purposes of subsection (4) the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.
- (6) Subsection (7) applies if a person to be served under this Part with a notice has specified an address within the United Kingdom other than the person's proper address (as decided under subsections (3) and (4)) as the one at which the person, or someone on the person's behalf, will accept documents of the same description as the notice.
- (7) The specified address is also to be treated for the purposes of this section and section 7 of the Act of 1978 in its application to this section as the person's proper address.
- (8) Subsection (9) applies if the name or address of any owner, lessee or occupier of land on whom a notice is to be served under this Part cannot, after reasonable inquiry, be ascertained.
- (9) The notice may be served by—
  - (a) leaving it in the hands of a person who is, or appears to be, resident or employed on the land, or
  - (b) leaving it conspicuously affixed to a building or object on the land.

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(10) Any notice required or authorised under this Part to be served on any person may be served on the person by transmitting the text of the notice to the person by means of an electronic communications network or by other means but while in electronic form provided the text is received by the person in legible form and is capable of being used for subsequent reference.

(11) In this section—

“body corporate” includes a limited liability partnership,

“director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate,

“officer of a body corporate” means any director, manager, secretary or other similar officer of the body corporate,

“partnership” does not include a limited liability partnership,

and references to serving include references to similar expressions (such as giving or sending).

## **56 Consequential amendments: Part 1**

Schedule 8 (which contains amendments of enactments) has effect.

## **57 Interpretation: Part 1**

(1) In this Part—

“conduit system” has the same meaning as in the electronic communications code; and references to providing a conduit system are to be read in accordance with paragraph 1(3A) of that code,

“develop” (and development), in relation to land or infrastructure, includes redevelop (and redevelopment),

“electronic communications apparatus” has the same meaning as in the electronic communications code,

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the Communications Act 2003 (c. 21),

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the Act of 2003 (application of the electronic communications code), and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide,

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the Act of 2003,

“electronic communications network” has the same meaning as in the Act of 2003,

“enactment” includes subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)),

“financial year” means—

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- (a) the period beginning with the day on which the HCA is established and ending with the next 31 March, and
  - (b) each subsequent period of 12 months ending with 31 March,
    - “improve”, in relation to housing and other land, includes refurbish, equip and fit out,
    - “modifications” includes omissions,
    - “notice” means notice in writing,
    - “operator”, in relation to an electronic communications code network means—
      - (a) the electronic communications code operator providing that network, or
      - (b) the Secretary of State, so far as the Secretary of State is providing or proposing to provide that network,
    - “provide” and related expressions, in relation to an electronic communications network, are to be read in accordance with section 32(4) of the Communications Act 2003 (c. 21).
- (2) References in this Part to powers of the HCA do not include references to powers contained in duties imposed on the HCA.

## 58 Index of defined expressions: Part 1

In this Part, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions listed in the right-hand column.

<i>Expression</i>	<i>Provision</i>
Allotment	Section 9(7)
Building	Section 2(3)
Caravan	Section 2(3)
Common	Section 9(7)
Conduit system (and providing such a system)	Section 57(1)
Designated area	Section 13(5)
Designation order	Section 13(5)
Develop (and development)	Section 57(1)
Electronic communications apparatus	Section 57(1)
Electronic communications code	Section 57(1)
Electronic communications code network	Section 57(1)
Electronic communications code operator	Section 57(1)
Electronic communications network	Section 57(1)
Enactment	Section 57(1)
Financial year	Section 57(1)
Giving directions	Section 47(6)

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<i>Expression</i>	<i>Provision</i>
The HCA	Section 1(1)
Housing	Section 2(3)
Improve	Section 57(1)
Infrastructure	Section 2(3)
Land	Section 2(3) (and Schedule 1 to the Interpretation Act 1978 (c. 30))
Local planning authority (in relation to designation orders or proposed designation orders)	Section 13(5)
Modifications	Section 57(1)
Notice	Section 57(1)
Objects of the HCA	Sections 2, 19(5) and 52(3)
Open space	Section 9(7)
Operator (in relation to electronic communications code network)	Section 57(1)
Permitted purposes	Section 13(5)
Powers of the HCA	Section 57(2)
Provide (in relation to an electronic communications network)	Section 57(1)
Registered provider of social housing	Section 80(2)(a)
Regulator of Social Housing	Section 81(2)(a)
Social housing (and its provision)	Section 32(13)
Social housing assistance	Section 32(13)
Subsidiary	Section 23(5)
Urban development corporation	Section 42(7)