

SCHEDULES

SCHEDULE 4

Section 92

REDUCING SOCIAL HOUSING REGULATION

PART 1

REMOVAL OF DISPOSAL CONSENT REQUIREMENTS

Housing Act 1985 (c. 68)

- 1 (1) Section 171D of the Housing Act 1985 (consent to certain disposals of housing obtained subject to the preserved right to buy) is amended as follows.
 - (2) After subsection (2) insert—

“(2ZA) Subsection (2) does not apply to a disposal of land by a private registered provider of social housing.”
 - (3) In subsection (2A)—
 - (a) omit paragraph (a);
 - (b) in paragraph (b), for “any other” substitute “a”.

Housing Act 1988 (c. 50)

- 2 The Housing Act 1988 is amended as follows.
- 3 (1) Section 81 (consent to certain disposals of housing obtained from housing action trusts) is amended as follows.
 - (2) In subsection (1), for “section 79(2)(za) or (a)” substitute “section 79(2)(a)”.
 - (3) In subsection (3A)—
 - (a) omit paragraph (a);
 - (b) in paragraph (b), for “any other” substitute “a”.
 - (4) In subsection (7), omit “section 148 or 172 of the Housing and Regeneration Act 2008,”.
- 4 (1) Section 133 (consent to certain disposals of housing obtained from local authorities) is amended as follows.
 - (2) In subsection (1ZA)—
 - (a) omit paragraph (a);
 - (b) in paragraph (b), for “any other” substitute “a”.
 - (3) For subsection (1B) substitute—

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“(1B) This section does not apply if the original disposal was made to a private registered provider of social housing.”

- (4) In subsection (7), omit “section 148 or 172 of the Housing and Regeneration Act 2008,”.

Local Government and Housing Act 1989 (c. 42)

- 5 (1) Section 173 of the Local Government and Housing Act 1989 (consent to certain disposals of housing obtained from new town corporations) is amended as follows.
- (2) After subsection (1) insert—
- “(1ZA) Subsection (1) does not apply to a disposal of land by a private registered provider of social housing.”
- (3) In subsection (1A)—
- (a) omit paragraph (a);
- (b) in paragraph (b), for “any other” substitute “a”.
- (4) In subsection (7), omit “section 148 or 172 of the Housing and Regeneration Act 2008,”.

Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

- 6 In Schedule 10 to the Leasehold Reform, Housing and Urban Development Act 1993 (acquisition of Interests from Local Authorities etc), in paragraph 1(2)(b), for “sections 148 and 172” substitute “section 148”.

Housing and Regeneration Act 2008

- 7 The Housing and Regeneration Act 2008 is amended as follows.
- 8 In section 60 (structural overview), in subsection (4), in the final column of the entry relating to Chapter 5 of Part 2 of the Act—
- (a) for paragraph (b) (Regulator’s consent) substitute—
- “(b) Notification of regulator”;
- (b) omit paragraphs (c), (d) and (g).
- 9 After section 74 insert—

“74A Leaving the social housing stock: transfer by private providers

- (1) A dwelling ceases to be social housing if a private registered provider of social housing owns the freehold or a leasehold interest and transfers it to a person who is not a registered provider of social housing.
- (2) Subsection (1) does not apply if and for so long as the private registered provider has a right to have the interest transferred back to it.
- (3) Subsection (1) does not apply where low cost home ownership accommodation is transferred to—
- (a) the “buyer” under equity percentage arrangements (see section 70(5)), or

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- (b) the trustees under a shared ownership trust (see section 70(6)).
- (4) See section 73 for circumstances when low cost home ownership accommodation ceases to be social housing.”
- 10 (1) Section 75 (leaving the social housing stock) is amended as follows.
- (2) Omit subsection (1).
- (3) In subsections (2) and (3), for “”Subsections 1 and (1A) do” substitute “Subsection (1A) does”.
- (4) In the heading, after “stock:” insert “local authority”.
- 11 In section 119 (de-registration: voluntary), in subsection (5), omit paragraph (a) and the “and” at the end of that paragraph.
- 12 In section 149 (moratorium: exempted disposals)—
- (a) omit subsection (6);
- (b) in subsection (7), for “6” substitute “5”;
- (c) in subsection (8), for “7” substitute “6”.
- 13 In section 171 (power to dispose), in subsection (3), omit “(which include provisions requiring the regulator’s consent for certain disposals)”.
- 14 For the italic heading above section 172 substitute—
- “Notification of regulator”.*
- 15 Omit sections 172 to 175 (disposal consents).
- 16 For section 176 substitute—

“176 Notification of disposal

- (1) If a private registered provider disposes of a dwelling that is social housing it must notify the regulator.
- (2) If a non-profit registered provider disposes of land other than a dwelling it must notify the regulator.
- (3) Subsection
(1)
continues to apply to any land of a private registered provider even if it has ceased to be a dwelling.
- (4) The regulator may give directions about—
- (a) the period within which notifications under subsection
(1)
or
(2)
must be given;
- (b) the content of those notifications.
- (5) The regulator may give directions dispensing with the notification requirement in subsection
(1)

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or
 (2)

- (6) A direction under this section may be—
 - (a) general, or
 - (b) specific (whether as to particular registered providers, as to particular property, as to particular forms of disposal or in any other way).
- (7) A direction dispensing with a notification requirement—
 - (a) may be expressed by reference to a policy for disposals submitted by a registered provider;
 - (b) may include conditions.
- (8) The regulator must make arrangements for bringing a direction under this section to the attention of every registered provider to which it applies.”

- 17 Omit section 179 and the italic heading before it (application of provisions of the Housing Act 1996 that have a connection with disposal consents.)
- 18 In section 186 (former registered providers), for “to 175” substitute “and 176 (apart from section 176(2))”.
- 19 Omit section 187 (change of use, etc).
- 20 Omit section 190 (consent to disposals under other legislation).
- 21 In section 278A (power to nominate for consultation purposes), for paragraph (b) substitute—
 - “(b) section 176;”.

PART 2

RESTRUCTURING AND DISSOLUTION: REMOVAL OF CONSENT REQUIREMENTS ETC

- 22 The Housing and Regeneration Act 2008 is amended as follows.
- 23 In section 115 (profit-making and non-profit organisations), in subsection (9), after “non-profit organisation” insert “or vice versa”.
- 24 For section 160 substitute—

“160 Company: arrangements and reconstructions

- (1) This section applies to a non-profit registered provider which is a registered company.
- (2) The registered provider must notify the regulator of any voluntary arrangement under Part 1 of the Insolvency Act 1986.
- (3) The registered provider must notify the regulator of any order under section 899 of the Companies Act 2006 (court sanction for compromise or arrangement).

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- (4) An order under section 899 of Companies Act 2006 does not take effect until the registered provider has confirmed to the registrar of companies that the regulator has been notified.
- (5) The registered provider must notify the regulator of any order under section 900 of the Companies Act 2006 (powers of court to facilitate reconstruction or amalgamation).
- (6) The requirement in section 900(6) of the Companies Act 2006 (sending copy of order to registrar) is satisfied only if the copy is accompanied by confirmation that the regulator has been notified.”

25 For section 161 substitute—

“161 Company: conversion into registered society

- (1) This section applies to a non-profit registered provider which is a registered company.
- (2) The registered provider must notify the regulator of any resolution under section 115 of the Co-operative and Community Benefit Societies Act 2014 for converting the registered provider into a registered society.
- (3) The registrar of companies may register a resolution under that section only if the registered provider has confirmed to the registrar that the regulator has been notified.
- (4) The regulator must decide whether the new body is eligible for registration under section 112.
- (5) If the new body is eligible for registration, the regulator must register it and designate it as a non-profit organisation.
- (6) If the new body is not eligible for registration, the regulator must notify it of that fact.
- (7) Pending registration, or notification that it is not eligible for registration, the new body is to be treated as if it were registered and designated as a non-profit organisation.”

26 For section 163 substitute—

“163 Registered society: restructuring

- (1) This section applies to a non-profit registered provider which is a registered society.
- (2) The registered provider must notify the regulator of any resolution passed by the society for the purposes of the restructuring provisions listed in subsection
(4)
.
- (3) The Financial Conduct Authority may register the resolution only if the registered provider has confirmed to the Financial Conduct Authority that the regulator has been notified.

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- (4) The following provisions of the Co-operative and Community Benefit Societies Act 2014 are the restructuring provisions—
 - (a) section 109 (amalgamation of societies);
 - (b) section 110 (transfer of engagements between societies);
 - (c) section 112 (conversion of society into a company etc).
 - (5) The regulator must decide whether the body created or to whom engagements are transferred (“the new body”) is eligible for registration under section 112.
 - (6) If the new body is eligible for registration, the regulator must register it and designate it as a non-profit organisation.
 - (7) If the new body is not eligible for registration, the regulator must notify it of that fact.
 - (8) Pending registration, or notification that it is not eligible for registration, the new body is to be treated as if it were registered and designated as a non-profit organisation.”
- 27 In section 165 (registered society: dissolution), for subsection (2) substitute—
- “(2) The registered provider must notify the regulator.
- (3) The Financial Conduct Authority may register the instrument under section 121 of that Act, or cause notice of the dissolution to be advertised under section 122 of that Act, only if the registered provider has confirmed to the Financial Conduct Authority that the regulator has been notified.”
- 28 Omit section 166 (winding up petition by regulator).
- 29 After section 169 insert—

“Notification of constitutional changes

169A Registered societies: change of rules

A non-profit registered provider that is a registered society must notify the regulator of any change to the society’s rules.

169B Charity: change of objects

The trustees of a registered charity that is a non-profit registered provider must notify the regulator of any amendment to the charity’s objects.

169C Companies: change of articles etc

A non-profit registered provider that is a registered company must notify the regulator of—

- (a) any amendment of the company’s articles of association,
- (b) any change to its name or registered office.”

Directions about notifications

169D Directions about notifications

- (1) The regulator may give directions about—
 - (a) the period within which notifications under sections 160 to 165 or 169A to 169C must be given by private registered providers;
 - (b) the content of those notifications.
- (2) The regulator may give directions dispensing with notification requirements imposed by sections 160 to 165 or 169A to 169C.
- (3) A direction under this section may be—
 - (a) general, or
 - (b) specific (whether as to particular registered providers, particular kinds of notification requirement or in any other way).
- (4) A direction dispensing with a notification requirement may include conditions.
- (5) The regulator must make arrangements for bringing a direction under this section to the attention of every registered provider to which it applies.”

30 In section 192 (overview), omit paragraph (c).

31 Omit sections 211 to 214 and the italic heading before section 211 (constitutional changes to non-profit providers).

PART 3

ABOLITION OF DISPOSAL PROCEEDS FUND

32 The Housing and Regeneration Act 2008 is amended as follows.

33 Omit—

- (a) sections 177 and 178;
- (b) the italic heading before section 177.

34 (1) Section 181 (meaning of “publicly funded” for purposes of provisions about right to acquire) is amended as follows.

(2) After subsection (2) insert—

“(2A) Condition 2 is that—

- (a) the dwelling was provided wholly or partly by a person using an amount for purposes for which the amount was required to be used by an HCA direction under section 32(4), and
- (b) before giving the direction the HCA notified the person that any dwelling so provided would be regarded as publicly funded.”

(3) In subsection (3), for “2” substitute “3”.

(4) After subsection (3) insert—

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“(3A) In relation to a private registered provider, the reference in subsection (3) to its disposal proceeds fund is to its disposal proceeds fund before the abolition of that fund by Part 3 of Schedule 4 to the Housing and Planning Act 2016.”

(5) In subsections (4) and (5), for “3” substitute “4”.

(6) In subsection (6), for “4” substitute “5”.

35 Regulations under section 213 in connection with the coming into force of paragraph

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may, in particular, include provision to preserve the effect of sections 177 and 178 of the Housing and Regeneration Act 2008 for a period in relation to sums in a private registered provider’s disposal proceeds fund immediately before that paragraph comes into force (including later interest added under section 177(7) of that Act).

PART 4

ENFORCEMENT POWERS

36 The Housing and Regeneration Act 2008 is amended as follows.

37 In section 269 (appointment of new officers of non-profit registered providers) in subsection (1)(c), for “proper management of the body’s affairs” substitute “to ensure that the registered provider’s affairs are managed in accordance with legal requirements (imposed by or under an Act or otherwise)”.

38 In section 275 (interpretation), for the definition of “mismanagement” substitute—
 ““mismanagement”, in relation to the affairs of a registered provider, means managed in breach of any legal requirements (imposed by or under an Act or otherwise);”.