



Welfare Reform and Work Act 2016

2016 CHAPTER 7

Social housing rents

23 Reduction in social housing rents

- (1) In relation to each relevant year, registered providers of social housing must secure that the amount of rent payable in respect of that relevant year by a tenant of their social housing in England is at least 1% less than the amount of rent that was payable by the tenant in respect of the preceding 12 months.
- (2) If—
 - (a) the tenancy of particular social housing comes to an end after part of a relevant year has elapsed, or
 - (b) this section ceases to apply in relation to the tenancy of particular social housing after part of a relevant year has elapsed,the requirement in subsection (1) has effect in relation to the part of the relevant year falling before that time with a proportionate reduction in the maximum amount of rent payable to the registered provider by the tenant.
- (3) The amount of rent payable to the registered provider by the tenant in respect of the 12 months preceding the first relevant year is to be treated for the purposes of subsection (1) as having been the greater of the following amounts—
 - (a) the amount of rent that would have been payable in respect of those 12 months if the rate of rent applicable at the beginning of 8 July 2015 had applied during those 12 months, and
 - (b) if the Secretary of State consents to the use by the registered provider of a different day (“the permitted review day”), the amount of rent that would have been payable in respect of those 12 months if the rate of rent applicable at the beginning of the permitted review day had applied during those 12 months.
- (4) A consent given for the purposes of subsection (3) may be a consent given for a particular case or for a description of cases.
- (5) If a tenancy existing in the first relevant year began at or before the beginning of 8 July 2015 but less than 12 months before the beginning of the first relevant year, the

tenancy is to be treated for the purposes of subsection (1) as having begun at least 12 months before the first relevant year (and subsection (3) is to have effect accordingly).

- (6) For the purposes of this section a relevant year, in relation to a registered provider, is—
- (a) in the case of a private registered provider whose practice as regards the greater number of its tenancies is to change rent payable no more than once a year and with effect from a single date other than 1 April (“the review date”)—
 - (i) a year beginning on the first review date to occur after 1 April 2016, or
 - (ii) a year beginning on the first, second or third anniversary of that date;
 - (b) in any other case, a year beginning on 1 April 2016, 1 April 2017, 1 April 2018 or 1 April 2019.
- (7) For the purposes of subsection (6), a private registered provider’s practice as regards its tenancies is to be determined by reference to its practice as regards the tenancies of its social housing in the year ending with 31 March 2016 (and a private registered provider which has no tenancies of its social housing in that year is to be regarded as having no practice as regards its tenancies).
- (8) A private registered provider whose practice is as described in subsection (6)(a) is to be regarded as having complied with the preceding subsections if it treats tenants in its social housing as if its relevant years were the years mentioned in subsection (6)(b).
- (9) This section is subject to—
- (a) section 27 (provision about excepted cases);
 - (b) Schedule 2 (further provision about social housing rents).

24 Exceptions

- (1) Section 23 does not apply in relation to a tenant of social housing if—
- (a) the accommodation is low cost home ownership accommodation;
 - (b) the accommodation is both low cost rental accommodation and low cost home ownership accommodation (see section 71 of the Housing and Regeneration Act 2008).
- (2) Section 23 does not apply in relation to social housing of a registered provider if, where the registered provider’s interest in the property that consists of or includes the social housing is subject to a mortgage—
- (a) the mortgagee is in possession of the interest in the property or the part of the property that includes the social housing, in the exercise of the mortgagee’s powers to enforce the mortgage,
 - (b) a receiver has been appointed in relation to the interest in the property or the part of the property that includes the social housing by—
 - (i) the mortgagee, in the exercise of the mortgagee’s powers to enforce the mortgage, or
 - (ii) the court, in connection with enforcing the mortgage,
 and that appointment is in force, or
 - (c) a person has been appointed by the mortgagee, in the exercise of the mortgagee’s powers to enforce the mortgage (including, in the case of a floating charge which relates to the interest in the property, the power under paragraph 14 of Schedule B1 to the Insolvency Act 1986), to exercise powers that include a power to sell or otherwise dispose of the interest in the

property or the part of the property that includes the social housing and that appointment is in force.

- (3) If—
- (a) a registered provider's interest in property that consists of or includes social housing was made subject to a mortgage, and
 - (b) the interest in the property, or the interest in the part that includes the social housing, is sold or otherwise disposed of after the coming into force of section 23 by—
 - (i) the mortgagee, in the exercise of the mortgagee's powers to enforce the mortgage,
 - (ii) a receiver appointed by the mortgagee or by the court as described in subsection (2)(b), or
 - (iii) a person appointed by the mortgagee as described in subsection (2)(c),section 23 ceases to apply in relation to that social housing at the time of that sale or other disposal.
- (4) In subsections (2) and (3)—
- “mortgage” includes a charge or other security;
 - “mortgagee” includes a person who is entitled to take steps to enforce a charge or other security.
- (5) The Secretary of State may by regulations provide for section 23 not to apply in cases prescribed by the regulations.
- (6) Regulations under subsection (5) may in particular make provision about—
- (a) tenants of a description prescribed by the regulations;
 - (b) tenancies of a description prescribed by the regulations;
 - (c) accommodation of a description prescribed by the regulations;
 - (d) accommodation which satisfies conditions prescribed by the regulations, including conditions relating to the funding of its building or refurbishment;
 - (e) events of a description prescribed by the regulations.
- (7) Regulations made by virtue of subsection (6)(a) may include provision about tenants whose income exceeds, or whose household's incomes exceed, an amount prescribed by the regulations during a period prescribed by the regulations.
- (8) Regulations made by virtue of subsection (6)(e) may include provision about periods during a tenancy when the rent payable is temporarily reduced or waived.
- (9) Regulations under this section must be made by statutory instrument.
- (10) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

25 Exemption of a registered provider of social housing

- (1) The regulator may issue a direction mentioned in subsection (2) in respect of a private registered provider if—
- (a) the condition in subsection (4) or (5) is satisfied, and
 - (b) the Secretary of State consents.
- (2) The directions are—

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

- (a) a direction that section 23 does not apply in relation to a private registered provider specified in the direction;
 - (b) a direction that section 23 is to have effect in relation to a private registered provider specified in the direction as if in section 23(1) for “at least 1% less than” there were substituted “no more than”;
 - (c) a direction that section 23 is to have effect in relation to a private registered provider specified in the direction as if section 23(1) required at least the lesser reduction specified in the direction;
 - (d) a direction that section 23 is to have effect in relation to a private registered provider specified in the direction as if section 23(1) required the private registered provider to secure that the amount of rent payable by a tenant of their social housing increased by no more than the percentage specified in the direction.
- (3) The regulator may specify in a direction—
- (a) the period during which it is to have effect, and
 - (b) the social housing in relation to which it is to have effect.
- (4) The condition in this subsection is that the regulator considers that complying with section 23 would jeopardise the financial viability of the private registered provider.
- (5) The condition in this subsection is that the circumstances of the private registered provider satisfy requirements prescribed in regulations made by the Secretary of State.
- (6) The regulator may publish a document about the measures that the regulator considers could be taken by a private registered provider to comply with section 23 and to avoid jeopardising its financial viability.
- (7) The Secretary of State may issue a direction mentioned in subsection (8) in respect of a local authority if the condition in subsection (10) or (11) is satisfied.
- (8) The directions are—
- (a) a direction that section 23 does not apply in relation to a local authority specified in the direction;
 - (b) a direction that section 23 is to have effect in relation to a local authority specified in the direction as if in section 23(1) for “at least 1% less than” there were substituted “no more than”;
 - (c) a direction that section 23 is to have effect in relation to a local authority specified in the direction as if section 23(1) required at least the lesser reduction specified in the direction;
 - (d) a direction that section 23 is to have effect in relation to a local authority specified in the direction as if section 23(1) required the authority to secure that the amount of rent payable by a tenant of their social housing increased by no more than the percentage specified in the direction.
- (9) The Secretary of State may specify in a direction—
- (a) the period during which it is to have effect, and
 - (b) the social housing in relation to which it is to have effect.
- (10) The condition in this subsection is that the Secretary of State considers that the local authority would be unable to avoid serious financial difficulties if it were to comply with section 23.

- (11) The condition in this subsection is that the circumstances of the local authority satisfy requirements prescribed in regulations made by the Secretary of State.
- (12) The Secretary of State may publish a document about the measures that the Secretary of State considers could be taken by a local authority in order to comply with section 23 and to avoid serious financial difficulties.
- (13) Regulations under this section must be made by statutory instrument.
- (14) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

26 Further provision about social housing rents

In Schedule 2—

- (a) Part 1 makes further provision about the maximum amount of rent that registered providers must secure is payable in respect of a relevant year or part of a relevant year by a tenant of their social housing in England;
- (b) Part 2 contains provision about exceptions and exemptions;
- (c) Part 3 contains general provision.

27 Provision about excepted cases

- (1) The Secretary of State may by regulations make provision about the maximum amount of rent payable to a registered provider in respect of a relevant year, or a part of a relevant year, by a tenant of social housing in relation to whom—
 - (a) section 23 does not apply because of an exception in regulations under section 24;
 - (b) a provision about levels of rent in Part 1 of Schedule 2 does not apply because of an exception in regulations under paragraph 5 of that Schedule.
- (2) The Secretary of State may by regulations make provision about the maximum amount of rent payable to a registered provider by a tenant of social housing—
 - (a) in respect of the part of the relevant year after an exception in regulations under section 24 ceases to apply;
 - (b) in respect of the part of the relevant year after an exception in regulations under paragraph 5 of Schedule 2 ceases to apply;
 - (c) in respect of the following relevant year (if any).
- (3) Regulations under subsection (1) or (2) may, in particular, require registered providers to secure that the maximum amount of rent payable in respect of a relevant year, or part of a relevant year, is an amount determined as specified in the regulations.
- (4) Regulations made by virtue of subsection (3) may, in particular, provide for section 23 or Part 1 of Schedule 2 to have effect with modifications.
- (5) The modifications that may be made by virtue of subsection (4) include (but are not limited to) modifications that—
 - (a) provide for the maximum amount of rent to be increased from year to year by no more than a percentage specified in the regulations;
 - (b) provide for the maximum amount of rent to be determined by disregarding the effect of a temporary reduction or waiver of rent;

- (c) provide for the maximum amount of rent to be determined by reference to a different period;
 - (d) provide for section 23(1) or paragraph 1(4)(c) or (5)(c) or 3(5) of Schedule 2 to have effect as if it referred to a different percentage;
 - (e) provide for paragraph 1, 2 or 3 of Schedule 2 to have effect as if the social rent rate were uplifted by a percentage specified in the regulations;
 - (f) provide for paragraph 3(2) or (3) of Schedule 2 to have effect as if paragraph 3(2)(a)(ii) or (4)(a)(ii) referred to a different percentage;
 - (g) provide for the maximum amount of rent to be determined by reference to what would have been the amount if an exception in regulations under section 24 or paragraph 5(5) of Schedule 2 (including an exception making such provision as is described in section 24(7) or paragraph 5(7)) had not applied.
- (6) Regulations made by virtue of subsection (5)(d) may not provide for a higher percentage to have effect.
- (7) Regulations made by virtue of subsection (5)(e) may, in particular, make provision in relation to cases where an exception in regulations under paragraph 5(5) of Schedule 2 making provision about social housing which satisfies conditions prescribed by the regulations as to design, facilities, use or the provision of support to tenants applies.
- (8) Regulations under subsection (1) may not provide for a maximum amount of rent payable by a tenant of social housing in respect of a relevant year, or a part of a relevant year, which is less than the amount that would be payable by the tenant in respect of that period if the rent was payable at the social rent rate in that period, in a case where an exception in regulations under paragraph 5(5) of Schedule 2 applies.
- (9) Regulations under subsection (1) or (2) may make provision about disapplying or modifying a requirement in the regulations as it relates to a registered provider.
- (10) Regulations made by virtue of subsection (9) may, in particular, enable the Secretary of State or the regulator to issue a direction that disappplies or modifies a requirement as it relates to a registered provider.
- (11) Regulations made by virtue of subsection (10) may provide for a direction to specify—
- (a) the period during which it has effect;
 - (b) the social housing in relation to which it has effect.
- (12) Regulations made by virtue of subsection (10) may—
- (a) provide for conditions to be satisfied before a direction is issued;
 - (b) provide for the regulator to obtain the consent of the Secretary of State before issuing a direction.
- (13) Regulations under this section must be made by statutory instrument.
- (14) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

28 Implied terms

- (1) A lease or other agreement by virtue of which a person is a tenant of a registered provider contains, by virtue of this subsection, an implied term enabling the registered provider to reduce the amount of rent payable by the tenant, without giving prior

notice, where the reduction is made for the purpose of complying with a requirement imposed by or under section 23 or 27 or Part 1 of Schedule 2.

- (2) Subsection (1) has effect notwithstanding any express provision in a lease or other agreement.
- (3) Section 102 of the Housing Act 1985 (variation of terms of a secure tenancy) has effect subject to subsection (1).

29 Change of registered provider

- (1) This section applies if—
 - (a) particular social housing of a registered provider becomes social housing of another registered provider (“the transferee”), and
 - (b) the social housing is subject to a tenancy that began before the social housing became the transferee’s social housing.
- (2) Sections 23 to 27 and Schedule 2 have effect in relation to the amount of rent payable by the tenant under the tenancy as if—
 - (a) the transferee’s relevant years were the same as the initial registered provider’s relevant years, and
 - (b) rent payable by the tenant before the social housing became the transferee’s social housing were rent payable to the transferee in respect of such earlier periods.
- (3) Subsection (4) applies if, immediately before the social housing became the transferee’s social housing, a requirement imposed by or under section 23 or 27 or Part 1 of Schedule 2 was disapplied or modified as regards the social housing—
 - (a) by a direction under section 25 or paragraph 6 of Schedule 2, or
 - (b) under section 27(9).
- (4) If the social housing becomes the transferee’s social housing otherwise than at the beginning of a relevant year of the initial registered provider, the requirement continues not to apply or continues to apply as modified (as the case may be) until—
 - (a) the relevant year of the initial registered provider current when the social housing becomes the transferee’s social housing comes to an end, or
 - (b) if earlier, the tenancy comes to an end.
- (5) In this section a reference to a relevant year of an initial registered provider includes, in the case of an initial registered provider that has ceased to exist, a reference to what would have been a relevant year of an initial registered provider if it had not ceased to exist.
- (6) In this section “initial registered provider”, in relation to a tenancy of social housing, means the first registered provider which—
 - (a) was subject to a requirement imposed by or under section 23 or 27 or Part 1 of Schedule 2 as regards the tenancy, or
 - (b) would have been so subject but for its being disapplied—
 - (i) by or under section 24 or paragraph 5 of Schedule 2, or
 - (ii) by a direction under section 25 or paragraph 6 of Schedule 2 or under section 27(9).

30 Enforcement

- (1) Part 2 of the Housing and Regeneration Act 2008 is amended as follows.
- (2) In section 220 (grounds for giving an enforcement notice to a registered provider), after subsection (11) insert—
 - “(11A) Case 11 is where the registered provider has failed to comply with—
 - (a) section 23 of the Welfare Reform and Work Act 2016,
 - (b) regulations under section 27 of that Act, or
 - (c) Part 1 of Schedule 2 to that Act.”
- (3) In section 227 (grounds for imposing a penalty on a private registered provider), after subsection (7) insert—
 - “(7A) Case 7 is where the registered provider has failed to comply with—
 - (a) section 23 of the Welfare Reform and Work Act 2016,
 - (b) regulations under section 27 of that Act, or
 - (c) Part 1 of Schedule 2 to that Act.”
- (4) In section 237 (grounds for requiring a private registered provider to pay compensation), after subsection (3) insert—
 - “(4) Case 3 is where the registered provider has failed to comply with—
 - (a) section 23 of the Welfare Reform and Work Act 2016,
 - (b) regulations under section 27 of that Act, or
 - (c) Part 1 of Schedule 2 to that Act.”
- (5) In section 247 (management tender), in subsection (1), after paragraph (a) (and before the “or” following it) insert—
 - “(aa) a registered provider has failed to comply with—
 - (i) section 23 of the Welfare Reform and Work Act 2016,
 - (ii) regulations under section 27 of that Act, or
 - (iii) Part 1 of Schedule 2 to that Act.”
- (6) In section 251 (appointment of manager of a private registered provider), in subsection (1), after paragraph (a) (and before the “or” following it) insert—
 - “(aa) a private registered provider has failed to comply with—
 - (i) section 23 of the Welfare Reform and Work Act 2016,
 - (ii) regulations under section 27 of that Act, or
 - (iii) Part 1 of Schedule 2 to that Act.”

31 Transitional provision

- (1) This section applies if, immediately before the rent restriction period ends—
 - (a) a lease or other agreement by virtue of which a person is a tenant of a registered provider contains provision under which rent will or may be increased with effect from a date or dates specified in the lease or other agreement (“rent review dates”), and
 - (b) the registered provider is subject to a requirement imposed by or under section 23 or 27 or Part 1 of Schedule 2 as regards the tenant.

- (2) The lease or other agreement contains, by virtue of this subsection, an implied term enabling the registered provider to treat a date that falls—
 - (a) after the rent restriction period ends, and
 - (b) before the first rent review date to occur after the rent restriction period ends, as if that date were the first rent review date to occur after the rent restriction period ends (instead of the date provided for in the lease or other agreement).
- (3) Subsection (4) applies if, under the provision mentioned in subsection (1)(a), the intervals between rent review dates may only be intervals of 51 weeks or more.
- (4) The lease or other agreement contains, by virtue of this subsection, an implied term enabling the registered provider, if it acts as mentioned in subsection (2), to treat the relevant date as if it were the second rent review date to occur after the rent restriction period ends (instead of the date provided for in the lease or other agreement).
- (5) In subsection (4) “the relevant date” means the date that precedes the second rent review date by the same period as the date treated under subsection (2) as the first rent review date precedes the first rent review date provided for in the lease or other agreement.
- (6) The lease or other agreement contains, by virtue of this subsection, an implied term requiring the registered provider, if it acts as mentioned in subsection (4), to treat the date that precedes each subsequent rent review date by the same period as if it were that subsequent rent review date (instead of the date provided for in the lease or other agreement).
- (7) The lease or other agreement contains, by virtue of this subsection, an implied term providing that, if the registered provider treats an earlier date as if it were a rent review date because of a term implied by subsection (2), (4) or (6), other provision in the lease or other agreement is to have effect accordingly.
- (8) Nothing in this section prevents the registered provider and the tenant varying or excluding by agreement a term implied by virtue of this section.
- (9) Section 102 of the Housing Act 1985 (variation of terms of a secure tenancy) has effect subject to subsections (2), (4), (6) and (7).
- (10) In this section “rent restriction period”, in relation to a tenant of a registered provider, means the period during which the registered provider might be subject to a requirement imposed by or under section 23 or 27 or Part 1 of Schedule 2 as regards the tenant.

32 Rent standards

Sections 194(2A) and 198(3) of the Housing and Regeneration Act 2008 (the powers of the regulator to set and revise standards relating to levels of rent) are subject to sections 23 to 25, 27 and 29 and Schedule 2.

33 Interpretation

- (1) In sections 23 to 32, this section and Schedule 2—

“local authority” has the same meaning as in the Housing Associations Act 1985;

“low cost home ownership accommodation” has the meaning given by section 70 of the Housing and Regeneration Act 2008;

“low cost rental accommodation” has the meaning given by section 69 of the Housing and Regeneration Act 2008;

“private registered provider” means a private registered provider of social housing (see section 80 of the Housing and Regeneration Act 2008);

“registered provider” means a registered provider of social housing (see section 80 of the Housing and Regeneration Act 2008);

“the regulator” means the Regulator of Social Housing;

“relevant year” has the meaning given by section 23;

“rent” includes payments under a licence to occupy;

“service charge” means an amount payable by the tenant of particular accommodation as part of, or in addition to, the rent, and which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord’s costs of management;

“social housing” has the same meaning as in Part 2 of the Housing and Regeneration Act 2008 (see sections 68 and 72 of that Act);

“the social housing rents provisions” means sections 23 to 32, this section and Schedule 2;

“social rent rate” has the meaning given by Schedule 2;

“tenancy” includes a licence to occupy;

“tenant” includes a person who has a licence to occupy.

- (2) In the social housing rents provisions, a reference to the beginning of a tenancy is a reference to the day on which, under the terms of a lease or other agreement, the tenant is entitled to possession under the tenancy, subject to subsection (3).
- (3) For the purposes of the social housing rents provisions, a tenancy of particular social housing is to be regarded as having been assigned to the tenant under the following tenancy (and not as coming to an end) where—
- (a) that tenancy is followed by another tenancy of that social housing and at least one person is both a tenant under the first tenancy when it comes to an end and a tenant under the following tenancy when it begins,
 - (b) that tenancy gives rise to another person’s statutory or assured tenancy of that social housing by virtue of Part 1 of Schedule 1 to the Rent Act 1977 (statutory tenants by succession), or
 - (c) that tenancy gives rise to another tenancy of that social housing by virtue of paragraph 13 of Schedule 1 to the Rent Act 1977 (change of statutory tenant by agreement and with consent of landlord),
- but a tenancy of particular social housing is to be regarded as coming to an end on being assigned by way of exchange (and the assignee is to be regarded as a tenant whose tenancy began at that time).
- (4) References to the tenant under a tenancy of particular social housing are to be read in accordance with subsection (3).
- (5) In determining the maximum amount of rent payable by a person who is a tenant of social housing for part of a relevant year, a fraction of a day during which the person is a tenant of that social housing is to be treated as a whole day during which the person is a tenant of that social housing.

- (6) Regulations made by the Secretary of State may specify cases in which a reference in the social housing rent provisions to an amount of rent payable to a registered provider includes, or does not include, a reference to—
 - (a) an amount payable by way of service charge, or
 - (b) an amount payable by way of service charge that is of a description specified in the regulations.
- (7) Regulations under subsection (6) may, in particular, make provision by reference to—
 - (a) guidance with respect to the principles upon which levels of rent should be determined issued by the Housing Corporation under section 36 of the Housing Act 1996;
 - (b) a standard set under section 193(1) of the Housing and Regeneration Act 2008 that includes provision under section 193(2)(c) (rules about levels of rent);
 - (c) a standard set under section 194(2A) of the Housing and Regeneration Act 2008 (the power of the regulator to set standards relating to levels of rent) that was published by the regulator before 8 July 2015;
 - (d) guidance relating to levels of rent issued by the regulator before 8 July 2015 (including guidance issued before 1 April 2012);
 - (e) guidance relating to levels of rent for social housing issued by the Secretary of State before 8 July 2015.
- (8) Regulations under this section must be made by statutory instrument.
- (9) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.