
STATUTORY INSTRUMENTS

1993 No. 1808

NEW TOWNS ENGLAND AND WALES

**The Development Board for Rural Wales
(Transfer of Housing Stock) Regulations 1993**

<i>Made</i>	- - - -	<i>19th July 1993</i>
<i>Laid before Parliament</i>		<i>22nd July 1993</i>
<i>Coming into force</i>	- -	<i>12th August 1993</i>

The Secretary of State for Wales in exercise of the powers conferred upon him by sections 172 and 190(1) of the Local Government and Housing Act 1989⁽¹⁾, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART 1

GENERAL

Citation, Commencement and Application

1.—(1) These Regulations may be cited as the Development Board for Rural Wales (Transfer of Housing Stock) Regulations 1993 and shall come into force on 12th August 1993.

(2) These Regulations apply in relation to the disposal of dwellings in Wales and of relevant property (wherever situated) relating to such dwellings.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires:—

“the 1989 Act” means the Local Government and Housing Act 1989;

“applicant” means an authority or approved person who has served a notice in reply as referred to in regulation 11(3), and who has not subsequently indicated that he does not wish to acquire the dwellings referred to in that notice and has not ceased to be an approved person;

“approved person” means a person approved in accordance with regulation 5;

“authority”, in relation to any dwelling or relevant property, means the district council within whose district that dwelling or relevant property is situated;

(1) 1989 c. 42.

“block of flats” means a building:—

- (a) containing 2 or more flats; and
- (b) occupied or intended to be occupied wholly or mainly for residential purposes;

“the Board” means the Development Board for Rural Wales;

“final valuation” means a valuation prepared under regulation 16(1)(b);

“housing stock” has the same meaning as in the 1989 Act but does not include:—

- (a) any property, rights, liabilities and obligations associated with dwellings within the meaning of section 172(9) of the 1989 Act which, taking account of any proposals there may be to dispose of any property vested in the Board other than its housing stock, ought reasonably to be excluded from disposal under these Regulations; or
- (b) liabilities and obligations under Part V of the Housing Act 1985(2) which, apart from any provision in regulations made under section 172 of the 1989 Act, would not be capable of being assigned or transferred by the Board;

“initial valuation” means a valuation prepared under regulation 16(1)(a);

“long tenancy” has the meaning given in section 115 of the Housing Act 1985(3);

“relevant property” means the property, rights, liabilities and obligations which are within the housing stock of the Board and which are (within the meaning of section 172(9) of the 1989 Act) associated with the dwellings comprised in that stock;

“retained dwelling” has the meaning given in regulation 4;

“teller” means a person appointed under regulation 13(1);

“tenant”, in relation to a dwelling, means a person holding either a tenancy of the dwelling or a licence to occupy the dwelling as a dwelling, in either case granted by the Board.

(2) Any reference in these Regulations to the transfer of dwellings includes a reference to the transfer with them of any relevant property which relates to those dwellings and which, in accordance with proposals made by the Board under regulation 3, is to be transferred with them.

(3) Any notice under these Regulations shall be in writing and may be served or given in accordance with paragraph 54 of Schedule 3 to the Development of Rural Wales Act 1976(4).

(4) Nothing in these Regulations shall:—

- (a) prevent the Board making a disposal in exercise of their powers under section 4 of the Development of Rural Wales Act 1976, or
- (b) affect the Board’s duty, in the period before a disposal of a dwelling in pursuance of these Regulations, to act in accordance with Part V (The Right to Buy) of the Housing Act 1985 with respect to that dwelling;

and, where the Board transfers an estate or interest in housing stock under any of those provisions, these Regulations shall cease to apply in relation to the disposal of that estate of interest.

Requirement to make proposals and the terms of disposal

3.—(1) As soon as practicable after the Secretary of State has given it a notice requiring it so to do, the Board shall make proposals for disposing of its housing stock in accordance with these Regulations.

(2) 1985 c. 68.

(3) Section 115 was amended by paragraph 40 of Schedule 17 to the Housing Act 1988 c. 50.

(4) 1976 c. 75.

(2) The Board may at any time prior to the Secretary of State giving his consent to a proposed transfer under section 172(4) of the 1989 Act vary the proposals made in respect of that transfer under paragraph (1).

(3) The proposals shall provide that relevant property is to be transferred with the dwellings to which it relates, or separately from those dwellings.

(4) Subject to the provisions of these Regulations, the disposals shall be on terms agreed between the Board and the transferees, and, without prejudice to the generality of the foregoing, those terms may provide:—

- (a) for payments to be made by instalments; and
- (b) that the Board be paid a proportion of any future receipts from the sale of dwellings under part V of the Housing Act 1985 or from such other disposals as the Board may specify.

Retained dwellings

4.—(1) “Retained dwelling” means, subject to paragraphs (2) and (3), any dwelling vested in the Board:—

- (a) in respect of which, before the final valuation referred to in regulation 16(1)(b), a notice has been served under section 122 of the Housing Act 1985 (notice of a claim to exercise the right to buy); or
- (b) in respect of which, before that time, any other application to acquire the freehold or a long tenancy has been made to the Board by the tenant; or
- (c) which is or is likely to be the subject of an application under section 96 of the Housing Act 1988⁽⁵⁾; or
- (d) which is likely to be demolished within a reasonable period.

(2) A dwelling ceases to be a retained dwelling:—

- (a) in respect of a dwelling within paragraph (1)(a), when the notice served under section 122 has been, or been deemed to be, withdrawn, or a lease has been granted pursuant to it under Part V of the Housing Act 1985; or
- (b) in respect of a dwelling within paragraph (1)(b), when the tenant withdraws the application, the Board determine not to proceed with the transaction, or the Board pursuant to the application dispose of less than their entire interest in the dwelling; or
- (c) in respect of a dwelling within paragraph (1)(c), when it ceases to be likely that an application under section 96 will be made or will proceed to a disposal, or when, after a disposal pursuant to the application, the Board retain an interest in the dwelling; or
- (d) in respect of a dwelling within paragraph (1)(d), when it ceases to be likely to be demolished within a reasonable period.

(3) A dwelling is a retained dwelling by virtue of paragraph (1)(a) or (b) only if it is not comprised in a block of flats.

(4) These Regulations apply in relation to retained dwellings as they apply to other dwellings of the Board except that the retained dwellings shall not be transferred under these Regulations until they cease to be retained dwellings.

(5) Where paragraph (4) applies, the transfer shall be on the terms that the dwellings (insofar as the Board has retained any interest in them) are to be transferred to the transferee for whom most of the tenants of dwellings in the parcel of stock have been transferred under the provisions of Part III of these Regulations.

(5) 1988 c. 50.

(6) Where there are dwellings which have ceased to be retained dwellings and are to be transferred in accordance with paragraph (4), they shall be transferred on the same terms as those other dwellings.

(7) A parcel of stock, in sub-paragraph (5) above, is the whole of any group of stock subject to the same notice in reply referred to in regulation 11(2).

Approved Persons

5.—(1) A person is an approved person for the purposes of disposals under these Regulations if approved by Housing for Wales under this regulation.

(2) Housing for Wales shall establish criteria to be considered by them in deciding whether to give approval to a person under this regulation.

(3) An approval under this regulation:—

- (a) shall only be given to a person making an application for this purpose to Housing for Wales; and
- (b) shall apply in relation to all the housing stock of the Board or housing stock of such description as may be specified in the approval; and
- (c) may be made subject to such conditions as may be imposed by Housing for Wales.

(4) Housing for Wales may revoke an approval given under this regulation, whether by reason of the failure of the approved person to comply with the conditions imposed in paragraph 5(3)(c) above or where an approved person ceases to meet the criteria which were taken into consideration by Housing for Wales in deciding whether to give approval under this regulation by notice to the approved person; but such revocation shall not affect any disposal completed before the notice is served or completed after such service in pursuance of a contract entered into before such service.

(5) The Board shall take the following steps to alert potential applicants to the terms of this regulation:—

- (a) publish once at least in a local newspaper or newspapers circulating in the area in which any housing stock which is subject to the Board's proposals for disposal is situated a notice stating that such proposals have been made and inviting interested persons to seek approval under this regulation; and
- (b) publish a similar notice in the London Gazette; and
- (c) take any other steps which the Secretary of State may determine.

Price

6.—(1) Any transfer under regulations 12 or 14 (except of retained dwellings which subsequently cease to be retained dwellings) shall be for the amount (which may be a negative amount) determined in the final valuation.

(2) Any other transfer of property under these Regulations shall be for an amount (which may be a negative amount) equal to the price which, on the basis of the assumptions described in regulation 16(3), it would realise if sold on the open market by a willing vendor.

Land Registration

7.—(1) Where the Board transfers any interest in land under these Regulations, they shall ensure that the instrument by which the transfer is effected contains a statement that the transfer is made under section 172 of the 1989 Act.

(2) Where the title of the Board to the land transferred is not registered, and the transfer is a conveyance or assignment of a description mentioned in section 123 of the Land Registration Act 1925⁽⁶⁾ (compulsory registration of title):—

- (a) the Board shall give the transferee a certificate in a form approved by the Chief Land Registrar stating that the Board is entitled to make the transfer subject only to such encumbrances, rights and interests as are stated in the instrument by which the transfer is effected or summarised in the certificate; and
- (b) for the purposes of registration of title, the Chief Land Registrar shall accept such a certificate as evidence of the facts stated in it, but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1986⁽⁷⁾ the Board is liable to indemnify him.

Purpose of Acquisition by a Council

8. Where the Board transfers any housing stock under these Regulations to a district council, that housing stock shall be treated as having been acquired by the council under Part II of the Housing Act 1985 except insofar as the instrument by which the transfer is effected provides that it is acquired for some other statutory purpose for which the council may acquire land.

PART II

RELEVANT PROPERTY SEPARATELY DISPOSED OF

Application of Part

9. This Part of these Regulations applies to relevant property which in accordance with the proposals under regulation 3 is to be disposed of separately from the dwellings to which it relates.

Disposal

10. The Board shall give effect to its proposals under regulation 3 by disposing of the relevant property, subject to section 172(4) of the 1989 Act, and to the agreement of the relevant transferee to the terms of the transfer, either by transferring the relevant property to the authority, or to one or more approved persons or to the authority and one or more approved persons.

PART III

GENERAL HOUSING STOCK

Notice to acquire

11.—(1) The Board shall commence to give effect to their proposals under regulation 3 in respect of the housing stock other than relevant property disposed of by Part II of these Regulations, by serving:—

- (a) not sooner than 30 days after the notice in regulation 5(5) a notice on all their tenants and upon such other parties as the Board shall deem appropriate:—

⁽⁶⁾ 1925 c. 21.

⁽⁷⁾ The Land Registration Act 1925 c. 21; the Land Registration Act 1936 c. 26; the Land Registration Act 1966 c. 39; Part I of the Land Registration and Land Charges Act 1971 c. 54; and the Land Registration Act 1986 c. 26.

- (i) inviting representations regarding the persons upon whom notices should be served under subparagraph (b); and
 - (ii) inviting representation on the Board's proposals for division of stock for the purpose stated in regulation 11(1)(b); and
 - (iii) specifying that such representations should be received within 2 months or such longer period as the Board shall determine from the service of their notices; and
 - (iv) drawing tenants' and other recipients' attention to the provisions of these Regulations, especially but not exclusively to the provisions of this regulation and regulations 12, 13, 14 and 15; and
- (b) subsequent to the expiry of the period referred to in sub-paragraph (a)(iii), and consequent upon consideration of representations received under sub-paragraph (a)(iii), one or more notices setting out the information specified in paragraph (2), on one or more authorities or approved persons, so that part of the housing stock is specified in at least one of the notices served.

(2) A notice served under paragraph (1)(b) shall contain the initial valuation of the housing stock specified in that notice, and the addresses of the dwellings specified, and shall state whether each dwelling is a flat and how many bedrooms it has, and the Board's notice shall invite a notice in reply to be served within 2 months of the service of the Board's notice or such longer period as the Board shall determine.

(3) A notice in reply shall contain the information set out in paragraph (2) above and shall state that the authority or approved person wishes to acquire in accordance with these Regulations all of the housing stock specified in the notice that that authority or person has received.

Disposal to approved persons or the authority

12.—(1) This regulation applies in relation to any housing stock where two or more applicants have both given the notice in reply referred to in regulation 11(3) indicating a wish to acquire, and (subject to paragraph (3)) have not subsequently indicated that they are not prepared to acquire under these Regulations the housing stock to which their notice in reply relates.

(2) Where this regulation applies, the Board shall in accordance with regulation 13 consult each of the tenants of the dwellings as to which applicant the tenant wishes his dwelling to be transferred to and thereafter, subject to section 172(4) of the 1989 Act, and to the agreement of the transferee to the terms of the transfer:—

- (a) all housing stock to which a notice of reply relates shall be transferred to the applicant for whom the most tenants of the housing stock have voted or
- (b) where there is a tie in the votes the teller shall decide between the applicants by lot and thereafter the provisions of paragraph (3) will apply.

(3) If, after the consultation required by paragraph (2), the applicant for whom most of the tenants of stock in the parcel have voted indicates that he is not prepared to acquire under these Regulations the stock to which his notice in reply relates, this regulation shall continue to apply insofar as:—

- (a) if there is only one other applicant who has given the notice in reply referred to in regulation 11(3) then the dwellings will be transferred to that other applicant; and
- (b) if there are two or more applicants who have served the notice in reply referred to in regulation 11(3) then the Board shall, in accordance with the procedure set out in regulation 13, consult the tenants a second time as to which of the two or more remaining applicants the tenant wishes his dwelling to be transferred to and thereafter, subject to section 172(4) of the 1989 Act, and to the agreement of the transferee to the terms of the transfer:—

- (i) all housing stock to which a notice of reply relates shall be transferred to the applicant for whom the most tenants of the housing stock have voted or
- (ii) where there is a tie in the votes the teller shall decide between the applicants by lot and thereafter the provisions of this paragraph will apply.

Tenant Consultation

13.—(1) The Board shall appoint a teller, independent of itself, the authority, and any approved person to conduct any consultation under regulation 12 and shall give the teller such information and assistance as the teller shall reasonably require.

(2) The teller shall send to each tenant being consulted:—

- (a) a statement in both English and Welsh prepared by the Board:—
 - (i) explaining the operation and purpose of the consultation; and
 - (ii) that in this regulation consultation is by a ballot; and
 - (iii) stating the date by which the tenant has to respond to the voting form
- (b) a voting form in both English and Welsh; and
- (c) separate statements, approved by the Board with the consent of the Secretary of State but subject to paragraph (8) prepared by the applicants who served the notice in reply referred to in regulation 11(3), stating their intentions in relation to the housing stock they may acquire and the address and telephone number from which the tenants may seek further information; and
- (d) a reply-paid envelope for the return of the voting form to the teller.

(3) The teller shall send a notice to each tenant recording his vote or that no vote is recorded for that tenant and shall on the basis of voting forms received by the teller before the date specified in the statement mentioned in paragraph (2)(a)(iii) (which may be a different period for different parcels) inform the Board and each tenant of the result of the consultation.

(4) Every person who is a tenant on the first day on which the teller sends documents to any tenants under paragraph (2) shall be consulted under that consultation, except any tenant who at that date either:—

- (a) is obliged to give up possession of the dwelling in pursuance of an order of the court; or
- (b) will be so obliged at a date specified in such an order, unless in either case the Board certifies to the teller that it no longer intends to enforce the order.

(5) For the purpose of this regulation, joint tenants shall each be entitled to a vote and shall each be sent a copy of the documents specified in paragraphs (2) and (3).

(6) For the purpose of this regulation, tenants of long tenancies affected by a transfer of dwellings and retained dwelling tenants, shall each be entitled to vote and shall each be sent a copy of the documents specified in paragraphs (2) and (3).

(7) The Board shall pay:—

- (a) the reasonable fees and expenses of the teller in pursuance of the duties in paragraphs (2) and (3); and
- (b) a reasonable amount in respect of the costs of the applicants incurred in the preparation of the statement mentioned in paragraph (2)(c) and in answering queries from tenants.

(8) Where the Board or the Secretary of State is of the opinion that a statement submitted to the Board under paragraph 2(2) is misleading or inaccurate in any particular, the Board shall either require a new statement to be prepared or approve the statement save for that particular and direct the teller to send to each tenant being consulted the submitted statement together with an

additional statement prepared by the Board which they and the Secretary of State consider corrects the inaccurate or misleading particular.

(9) Any dispute arising under paragraph (8) between the Board and the teller or the Board and any of the applicants shall be resolved by the Secretary of State, or else resolved by the Board and the teller taking such steps as the Secretary of State shall determine.

Disposal to a Sole Applicant

14.—(1) This regulation applies in relation to any housing stock where:—

- (a) regulation 12 does not apply; and
- (b) one applicant has served the notice in reply referred to in regulation 11(3) in relation to that part of the housing stock and is willing to acquire those dwellings under these Regulations.

(2) Where this regulation applies, the Board shall, subject to section 172(4) of the 1989 Act and the agreement of the applicant to the terms of the transfer, transfer those dwellings to the applicant.

Disposal to approved persons in absence of a notice in reply

15.—(1) This regulation applies in relation to any housing stock where regulations 12 or 14 do not apply.

(2) Where this regulation applies the Board shall dispose of the housing stock, subject to section 172(4) of the 1989 Act and the agreement of the relevant transferee to the terms of the transfer, by transferring them to one or more approved persons or to the authority.

(3) Prior to reaching agreement with a particular transferee in relation to any dwellings the Board shall invite representations within 2 months or such longer period as the Board shall determine of the issuing of that invitation from the tenants of the dwellings and shall take into account their views regarding the identity of the transferee or transferees.

Valuation

16.—(1) The Board shall appoint and pay the reasonable fees and expenses of the valuer or valuers chosen by the Board from a list approved by the district valuer and independent of itself and of any applicant. A valuer shall prepare:—

- (a) an initial valuation of housing stock (except retained dwellings) to be included in a notice to be given by the Board under regulation 11(1)(b), and
- (b) subject to paragraph (6), a final valuation of stock (except retained dwellings) to be transferred under regulations 12 or 14.

(2) The Board shall give to a valuer or valuers such information and assistance as he shall reasonably require.

(3) The valuations referred to in paragraph (1) shall be on the basis of the price the property to be transferred would realise if sold on the open market by a willing vendor on the following assumptions:—

- (a) that any dwellings and other property are sold subject to any subsisting tenancies but otherwise with vacant possession;
- (b) that the only bidders in the market for any dwellings (but not for any relevant property) are approved persons and other persons who fulfil the criteria for approval established under regulation 5; and
- (c) that any property is to be conveyed on the terms which have been agreed or required to be imposed in relation to its transfer under these Regulations; and

(d) that the rent in respect of a subsisting tenancy mentioned in sub-paragraph (a) of any dwelling occupied as such at the date of transfer:—

- (i) for the period ending immediately before the first anniversary of the relevant date after the transfer will not exceed that charged by the Board at the date of transfer; and
- (ii) thereafter would increase (if at all) on each anniversary of the relevant date by an amount not exceeding the aggregate of 4% and the amount (if any) by which the valuers estimate that the retail prices index for the month in which the anniversary occurs will be greater than that for the month in which the previous anniversary of the relevant date occurred, expressed as a percentage of the estimated retail prices index for the last-mentioned month.

(4) For the purposes of the valuation assumption in paragraph (3)(d) an estimate of the duration of a subsisting tenancy of a dwelling shall be made on the basis that the tenancy is treated as in effect during any period when a subsequent tenancy of the dwelling is in effect which was granted to a person who was a tenant of another dwelling, which was occupied as such, at the date of transfer.

(5) In paragraph (3)(d) “the relevant date” means the date on which the Board last increased the rent under the tenancy prior to the date of transfer.

(6) Any dispute between the Board and any applicant regarding valuation of the housing stock shall be resolved by the Secretary of State, or else resolved by the Board and the applicant taking such steps as the Secretary of State shall determine.

19th July 1993

John Redwood
Secretary of State for Wales

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision under section 172 and 190(1) of the Local Government and Housing Act 1989 for the transfer of the housing stock of the Development Board for Rural Wales (“the Board”).

Part I contains general provisions. Under regulation 3, the Board may be required by the Secretary of State to make proposals for the disposal of its housing stock. Certain dwellings shall be or shall become retained by the Board and, under regulation 4, only transferred or included in a parcel proposed to be transferred when they cease to satisfy the requirements for retention. Under regulation 5, persons may be approved by Housing for Wales as potential acquirers and the Board must take specified steps to publicise the procedure for approval before proceeding under Part III. Regulation 6 makes provision regarding the price at which property is to be transferred. Regulation 7 contains land registration requirements. Regulation 8 provides that stock transferred to a district council is to be treated as having been acquired by the council under Part II of the Housing Act 1985, save in specified circumstances.

Part II (consisting of regulations 9 and 10) relates to property transferred separately from any dwellings.

Part III relates to the transfer of housing stock. Regulation 11 provides for the Board to offer dwellings to district councils and approved persons, having first invited representations from its tenants and others it deems appropriate as to who it should offer the dwellings to and how the stock should be divided for this purpose. Regulation 12 provides for the transfer of parcels of stock which two or more applicants wish to acquire, following consultation with tenants under regulation 13. In any such consultation, all tenants shall be given the opportunity to express their preferences. In the event of a successful applicant choosing, after the ballot, not to proceed, there will either be a new ballot if two or more other applicants remain interested or a transfer to the sole applicant who remains if there is only one. Regulation 14 provides for the transfer to a sole applicant of dwellings which no other applicants indicate a willingness to acquire. If no applicant indicates under the Regulations that it wishes to acquire, dwellings will be transferred to approved persons under regulation 15. Regulation 16 provides for valuations, the valuation in regulation 16(1)(b) is final but this is subject to the provisions of paragraph (6) which sets out procedure for resolving disputes.