
STATUTORY INSTRUMENTS

2008 No. 3068

**The Housing and Regeneration Act 2008
(Commencement No. 2 and Transitional,
Saving and Transitory Provisions) Order 2008**

Citation and interpretation

1.—(1) This Order may be cited as the Housing and Regeneration Act 2008 (Commencement No. 2 and Transitional, Saving and Transitory Provisions) Order 2008.

(2) In this Order—

“the 1993 Act” means the Leasehold Reform, Housing and Urban Development Act 1993(1);

“the Act” means the Housing and Regeneration Act 2008;

“the CNT” means the Commission for the New Towns;

“the HCA” means the Homes and Communities Agency;

“the URA” means the Urban Regeneration Agency;

“the commencement date” means 1st December 2008.

Commencement of certain provisions of Part 1 (provisions relating to the Homes and Communities Agency)

2.—(1) The following provisions of Part 1 of the Act shall come into force on the commencement date—

- (a) section 4 (powers: general), in relation to the powers brought into force by this Order;
- (b) sections 5 to 7 (general powers relating to land and infrastructure);
- (c) section 8 (powers to deal with land);
- (d) section 9 (acquisition of land) and Schedule 2;
- (e) section 10 (restrictions on disposal of land);
- (f) section 11 (main powers in relation to acquired land) and Schedule 3;
- (g) section 12 (powers in relation to statutory undertakers) and Schedule 4;
- (h) sections 13 to 16 (planning);
- (i) sections 17 and 18 (other powers in relation to land);
- (j) section 19(1) to (4) (financial assistance), except for the purpose of enabling the HCA to give financial assistance on condition that the recipient provides social housing, and section 19(5);
- (k) sections 20 to 23 (borrowing powers);
- (l) section 24 (power to charge);
- (m) section 25 (directions as to surplus funds);

- (n) sections 26 and 27 (duties to act as agent);
- (o) sections 28 to 30 (other functions: general);
- (p) sections 38 to 40 (information, education and guidance etc.);
- (q) section 41 (control of subsidiaries);
- (r) section 42 (agency arrangements with UDCs);
- (s) section 43 (acting with, or for, other persons: general);
- (t) section 45 (support services);
- (u) section 48 (consents of the Secretary of State);
- (v) section 50(2) (abolition of the Commission for the New Towns) and, with the exception of the provisions specified in paragraph (2), Schedule 5;
- (w) section 56 (consequential amendments) and, with the exception of the provisions specified in paragraph (3), Schedule 8 in so far as it is not already in force;
- (x) sections 57 and 58 (interpretation etc. of Part 1) so far as required for the interpretation of provisions commenced by this article.

(2) The excepted provisions of Schedule 5 mentioned in paragraph (1)(v) are paragraphs 2 to 4, 10 to 24, 27, 28, 30 and 32.

(3) The excepted provisions of Schedule 8 mentioned in paragraph (1)(w) are paragraphs 4(c) and (d), 13, 19(3)(a) and (b), 20(3), 21(3), 35, 44 to 50, 63, in so far as it relates to the repeal of section 158 of, and Schedules 17 and 18 to, the 1993 Act, 65 and 77(3).

Partial commencement of section 277 (provisions of Part 2 relating to regulation of social housing)

3. Section 277 of the Act (consequential amendments) shall come into force on the commencement date for the purpose of bringing into force paragraphs 4 and 6 of Schedule 9 to the Act.

Commencement of certain provisions of Part 3 (landlord and tenant and housing matters)

4.—(1) The following provisions of Chapter 2 of Part 3 of the Act shall come into force on the commencement date—

- (a) section 295 (management agreements: extending requirements to co-operate);
- (b) section 296 (requirements to co-operate in relation to certain disposals of land);
- (c) section 311 (disposals of dwelling-houses by local authorities) and Schedule 14.

(2) The provisions of Chapter 2 of Part 3 of the Act mentioned in paragraphs (3) to (10) of this article shall come into force on the commencement date to the extent or for the purpose specified in relation to each such provision.

(3) Subsections (5), (6), (8) and (9) of section 298 (family intervention tenancies: termination) for the purpose of enabling the Secretary of State to make regulations under subsection (5) or (8).

(4) Section 299 (possession orders relating to certain tenancies) and Part 2 of Schedule 11 for the purpose of enabling the appropriate national authority to make orders under that Part of that Schedule.

(5) Sections 301 and 302 (shared ownership leases) for the purpose of enabling the Secretary of State to make—

(a) regulations prescribing requirements, exemptions, conditions and percentages, for the purposes of paragraphs 3A or 4A of Schedule 4A to the Leasehold Reform Act 1967(2), and

(b) orders under paragraph 4A of that Schedule.

(6) Section 303 (service charges: provision of information etc.) and paragraphs 1 to 10 of Schedule 12 for the purpose of enabling the Secretary of State to make regulations under section 21 (service charges information) of the Landlord and Tenant Act 1985(3).

(7) Section 303 and paragraphs 11 to 13 of Schedule 12 for the purpose of enabling the Secretary of State to make regulations under section 42A (service charge contributions to be held in designated account) of the Landlord and Tenant Act 1987(4).

(8) Section 308 (former right to buy and other flats: service charge loans) in relation to loans in respect of service charges on flats in England only.

(9) Section 309 (former right to buy and other flats: equity share purchases) for the purpose of enabling the Secretary of State to make regulations under section 450D of the Housing Act 1985(5).

(10) Section 315 (armed forces: local connection test) shall come into force in relation to applications—

(a) for an allocation of housing accommodation, to which section 166 of the Housing Act 1996(6) applies; or

(b) to which Part VII (homelessness), as applied by section 183(1) (application for assistance) of that Act, applies,

made on or after the commencement date.

(11) Section 297 (family intervention tenancies: general) and, so far as not brought into force by paragraphs (2) and (3) of this article, section 298 (family intervention tenancies: termination) shall come into force on 1st January 2009.

Commencement of certain repeals and revocations

5. Section 321(1) (repeals) shall come into force on the commencement date, so far as it is not already in force, and so far as it relates to the entries in Schedule 16 to the Act relating to the repeals and revocations listed in the Schedule to this Order.

General saving provision

6. The amendments made by the provisions brought into force by this Order do not affect the validity of anything done (or having effect as if done) by or in relation to the URA or the CNT before the commencement date.

Transitional and saving provisions: functions transferred from the URA or the CNT to the HCA or the Welsh Ministers

7.—(1) Anything which, on the commencement date, is in the process of being done by or in relation to the transferor may, so far as it relates to any function transferred by a relevant enactment from the transferor to the transferee, be continued by or in relation to the transferee.

(2) 1967 c. 88. Schedule 4A was inserted by the Housing and Planning Act 1986 (c. 63), section 18 and Schedule 4, paragraphs 6 and 11.

(3) 1985 c.70.

(4) 1987 c.31.

(5) 1985 c.68.

(6) 1996 c.52.

(2) Anything done (or having effect as if done) by or in relation to the transferor for the purposes of or in connection with any function transferred by a relevant enactment from the transferor to the transferee shall, if in force or effective on the commencement date, have effect as if done by or in relation to the transferee so far as that is required for continuing its effect on or after the commencement date.

(3) Any enactment, instrument or other document passed or made before the commencement date shall have effect, so far as necessary for the purposes of or in consequence of paragraph (1) or (2), as if any references (however expressed) to the transferor were references to the transferee.

(4) The references in paragraphs (1) and (2) to things done include references to things omitted to be done.

(5) In this article—

“relevant enactment” means—

- (a) in the case of a transfer from the URA to the HCA, paragraph 4 of Schedule 8 to the Act;
- (b) in the case of a transfer from the CNT to the HCA or the Welsh Ministers, paragraphs 8 and 31 of Schedule 5 to the Act and paragraphs 4 to 12, 17, 18, 36, 43, 61, 80 and 82 of Schedule 8 to the Act;

“the transferee”—

- (a) where the transferor is the URA, means the HCA;
- (b) where the transferor is the CNT, means the HCA or the Welsh Ministers;

“the transferor”, except in the definition of “the transferee”, means the URA or the CNT,

and the references in this paragraph to the HCA or the Welsh Ministers are to be read as including references to them acting in a particular capacity or in relation to particular matters.

Transitional provisions in relation to investigations under the Local Government Act 1974

8. An investigation may be begun in accordance with Part 3 of the Local Government Act 1974(7) (“the 1974 Act”) on or after the commencement date in relation to actions or failures to act of the CNT or the URA before the commencement date, but in such a case the provisions of that Part shall have effect as if the actions or failures concerned were actions or failures of the HCA, and for this purpose and in particular—

- (a) section 26(7)(a)(8) of the 1974 Act shall continue to have effect as though that subsection were not repealed by section 56 of, and paragraph 18 of Schedule 8 to, the Act; and
- (b) section 26(7)(ba) of the 1974 Act shall continue to have effect as though that subsection were not repealed in part and amended by section 56 of, and paragraph 18 of Schedule 8 to, the Act, but
- (c) the references to the CNT and the URA in each of those subsections respectively shall be construed as though they were references to the HCA.

Transitional provisions in relation to the acquisition of land etc.

9.—(1) This article is subject to article 10.

(7) 1974 c.7.

(8) Section 26 was amended by section 84 of and Schedule 14 to the Local Government Act 1985 (c. 51); section 29 of and Schedule 3 to the Local Government Act 1988 (c. 9); section 187 of and Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993; section 63 of and Schedule 7 to the Environment Act 1995 (c. 25); sections 125 and 152 of and Schedules 12 and 18 to the Government of Wales Act 1998 (c. 38); section 39 of and Schedules 6 and 7 to the Public Services Ombudsman (Wales) Act 2005 (c. 10); sections 173, 182, 241 of and Schedules 12 and 18 to the Local Government and Public Involvement in Health Act 2007 (c. 28); and SI 2007/1889. In particular, paragraph (7)(ba) was inserted by the 1993 Act, Schedule 21, paragraph 6(2) and amended by paragraph 18 of Schedule 8 to the Act.

(2) Anything which, on the commencement date, is in the process of being done by or in relation to the URA under a superseded enactment may be continued by or in relation to the HCA under the corresponding provision of the Act.

(3) Any subordinate legislation or other thing done (or having effect as if done) by or in relation to the URA under or for the purposes of a superseded enactment shall, if in force or effective on the commencement date, have effect as if done by or in relation to the HCA under the corresponding provision of the Act so far as that is required for continuing its effect on and after the commencement date.

(4) Any enactment, instrument or other document (including the Act) passed or made before the commencement date shall have effect, so far as necessary for the purposes of or in consequence of paragraph (2) or (3), as if—

- (a) any references (however expressed) to the HCA included, in relation to times, circumstances or purposes in relation to which any superseded enactment had effect, references to the URA;
- (b) any references (however expressed) to the corresponding provision of the Act included, in relation to times, circumstances or purposes in relation to which any superseded enactment had effect, references to the superseded enactment;
- (c) any references (however expressed) to the URA included, in relation to times, circumstances or purposes in relation to which any corresponding provision of the Act has effect, references to the HCA; and
- (d) any references (however expressed) to a superseded enactment included, in relation to times, circumstances or purposes in relation to which any corresponding provision of the Act has effect, references to the corresponding provision.

(5) The references in paragraphs (2) and (3) to things done include references to things omitted to be done.

(6) In this article “superseded enactment” means sections 162 and 169 of, and Schedule 20 to, the 1993 Act.

10.—(1) Paragraph (2) applies in relation to a compulsory purchase order which—

- (a) was made by the URA before the commencement date under section 162 of the 1993 Act but in respect of which the Secretary of State has not made a decision before that date; and
- (b) is treated by virtue of article 9 above as made by the HCA under section 9 of the Act.

(2) Before the Secretary of State—

- (a) confirms the order under section 9 of, and Schedule 2 to, the Act on or after the commencement date; or
- (b) decides under the enactments applied by those provisions on or after that date to permit the HCA to exercise the power to confirm the order,

the Secretary of State must be satisfied that the acquisition of the land to which the order relates would have been within the powers of the URA when the order was made.

Transitional and saving provisions in relation to the planning functions of the URA

11.—(1) The repeal of sections 170 and 171 of the 1993 Act by paragraph 63(2) of Schedule 8 to the Act and the amendments to section 8A of the Town and Country Planning Act 1990⁽⁹⁾ by paragraph 52 of Schedule 8 to the Act and to section 3 of the Planning (Hazardous Substances) Act

(9) 1990 c.8. Section 8A was amended by section 187(1) of and Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

1990(10) by paragraph 54 of Schedule 8 to the Act do not apply in relation to anything which, on the commencement date, is in the process of being done by virtue of any of those sections by or in relation to the URA or is in force or effective by virtue of any of those sections, including by virtue of any order under section 170 conferring functions on the URA.

(2) Sections 170 and 171 of the 1993 Act continue to apply in such cases but as if references to the URA (however expressed) in section 171 and in any order under section 170 were references to the HCA.

(3) Anything which, on the commencement date, is in the process of being done by or in relation to the URA in such cases may be continued by or in relation to the HCA.

(4) Anything done (or having effect as if done) by or in relation to the URA for the purposes of or in connection with such cases shall, if in force or effective on the commencement date, have effect as if done by or in relation to the HCA so far as that is required for continuing its effect on or after the commencement date.

(5) Section 8A of the Town and Country Planning Act 1990 and section 3 of the Planning (Hazardous Substances) Act 1990 continue to apply unamended in such cases but as if references to the URA (however expressed) were references to the HCA.

(6) The references in paragraphs (3) and (4) to things done include references to things omitted to be done.

(7) Section 4 of the Act applies as if the reference in subsection (6)(a) of that section to sections 13 and 14 included a reference to paragraph (2) above.

(8) The reference to Part 1 of the Act in section 26(7)(ba) of the Local Government Act 1974 shall be treated as including a reference to Part 3 of the 1993 Act for the purposes of any complaint about the conduct of the URA which is treated as conduct of the HCA by virtue of paragraphs (2) and (3) above.

Transitional and saving provisions in relation to landfill tax (contaminated land) provisions of the Finance Act 1996

12.—(1) The amendments to section 43A of the Finance Act 1996(11) by paragraph 64 of Schedule 8 to the Act do not apply in relation to anything which, on the commencement date, is in the process of being done by or on behalf of the URA or is in force or effective in relation to the URA by virtue of that section.

(2) Section 43A of the Finance Act 1996 continues to apply for the purposes of such cases but as if references to the URA (however expressed) were references to the HCA.

(3) The references in section 43B of the Finance Act 1996 to “the applicant” or a “person” (however expressed) where, before the commencement date, the applicant or person concerned would have been the URA shall, after the commencement date, have effect as if those references were to the HCA.

(4) Section 43B(4) shall have effect in relation to a certificate issued to the URA as if for paragraph (b) there were substituted—

“(b) shall cease to have effect on such date as the Commissioners may set out in the certificate, but in any event no later than the day on which the HCA ceases to have the

(10) 1990 c.10. Section 3 was amended by section 162 of and Schedule 16 to the Environmental Protection Act 1990 (c. 43), section 20 of and Schedule 6 to the Local Government (Wales) Act 1994 (c. 19), section 120 of and Schedule 24 to the Environment Act 1995 and section 187 of and Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(11) 1996 c.8. Section 43A was inserted by SI 1996/1529 and will be repealed by SI 2008/2669. It was amended by section 6(2) of and Schedule 3 to the Pollution Prevention and Control Act 1999 (c. 24) and by SI 2000/1973, SI 2007/3538 and SI 2005/3226. Section 43B was inserted by SI 1996/1529 and will be repealed by SI 2008/2669. It was amended by SI 2008/2669.

intention to carry out any activity involving reclamation of the land in relation to which the certificate was issued”.

Other transitional and saving provisions in relation to other functions of the URA

13.—(1) The repeal of section 164 of the 1993 Act by paragraph 63(2) of Schedule 8 to the Act does not apply in relation to any financial assistance given by the URA under that section before the commencement date, or affect the terms and conditions (if any) on which the financial assistance was given.

(2) That section and the terms and conditions imposed by virtue of that section (if any) continue to apply in such cases but as if references to the URA (however expressed) were references to the HCA.

Signed by authority of the Secretary of State for Communities and Local Government

26th November 2008

Iain Wright
Parliamentary Under Secretary of State
Department for Communities and Local
Government