
STATUTORY INSTRUMENTS

2018 No. 805 (C. 62)

HOUSING, ENGLAND

The Housing and Planning Act 2016 (Commencement No. 9 and Transitional and Saving Provisions) Regulations 2018

Made - - - - 2nd July 2018

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 212 and 216(3) and (4) of the Housing and Planning Act 2016⁽¹⁾.

Citation

1. These Regulations may be cited as the Housing and Planning Act 2016 (Commencement No. 9 and Transitional and Saving Provisions) Regulations 2018.

Interpretation

2. In these Regulations—

“the Act” means the Housing and Planning Act 2016;

“the 2008 Act” means the Housing and Regeneration Act 2008⁽²⁾;

“pre-commencement housing moratorium” means a moratorium under section 145 of the 2008 Act that begins before 5th July 2018.

Provisions coming into force on 5th July 2018

3. The following provisions of the Act come into force on 5th July 2018—

(a) sections 95 to 101, 102(1) and 103 to 117 (insolvency of registered providers of social housing);

(b) Schedule 5 (conduct of housing administration: companies);

(c) Schedule 6 (amendments to housing moratorium and consequential amendments).

Transitional and saving provisions: pre-commencement housing moratorium

4.—(1) Despite the coming into force of paragraphs 3, 4 and 9 of Schedule 6 to the Act in accordance with regulation 3(c), sections 145, 146 and 275 of the 2008 Act continue to have effect

(1) 2016 c.22.

(2) 2008 c.17.

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without amendment in relation to a pre-commencement housing moratorium in respect of a private registered provider.

(2) A pre-commencement housing moratorium ends in accordance with section 146(2) of the 2008 Act as saved by paragraph (1), or when a housing administration order is made under Chapter 5 of Part 4 of the Act in relation to the private registered provider, whichever is the sooner.

Transitional provision: further moratorium

5. In relation to a pre-commencement housing moratorium, section 147 of the 2008 Act has effect in relation to the private registered provider as if for “further notice” in subsections (1)(b) and (2) were substituted “notice”.

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

Dominic Raab
Minister of State
Ministry of Housing, Communities and Local
Government

2nd July 2018

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations commence certain provisions of the Housing and Planning Act 2016 (c.22) (“the Act”).

Regulation 3(a) brings into force all those provisions of Chapter 5 of Part 4 (insolvency of registered providers of social housing) of the Act that are not already in force. That Chapter enables the Secretary of State or the Regulator of Social Housing (with consent of the Secretary of State) to apply to court for a housing administration order in respect of a private registered provider of social housing. Such an order enables the appointment of a housing administrator whose two objectives are normal administration of the registered provider and keeping housing in the regulated sector. That Chapter also imposes restrictions on other insolvency procedures in relation to private registered providers of social housing.

Regulation 3(b) brings into force Schedule 5 (conduct of housing administration: companies). Part 1 of that Schedule modifies Schedule B1 of the Insolvency Act 1986 (c. 45). Part 2 further modifies Schedule B1 in relation to foreign companies. Part 3 makes other modifications and provision enabling the Secretary of State to make further modifications to insolvency legislation by regulation.

Regulation 3(c) brings into force Schedule 6 (amendments to housing moratorium and consequential provisions). It amends provision in the Housing and Regeneration Act 2008 (c. 17) (“the 2008 Act”) relating to housing moratoria. Paragraph 3 of the Schedule makes amendments to provision relating to the commencement of a moratorium and paragraph 4 introduces the ability to end a moratorium by the making of a housing administration order. It also changes the relevant time periods for moratoria to 28 calendar days.

Regulation 4 makes transitional and saving provision in relation to housing moratoria. It preserves the existing position relating to the beginning and duration of a housing moratorium that began before 5th July 2018 (“pre-commencement housing moratorium”). A pre-commencement housing moratorium generally comes to an end (if not extended or cancelled) after 28 working days from the date on which the Regulator of Social Housing was given notification of the step which triggered the moratorium. However, a pre-commencement housing moratorium is also brought to an end upon the making of a housing administration order under Chapter 5 of Part 4 of the Act which Regulation 3(a) brings fully into force.

Regulation 5 makes transitional provision in relation to further moratoria that is consequential on the amendments to section 145 and 147 of the 2008 Act made by paragraphs 3 and 5 of Schedule 6 to the Act which are brought into force by regulation 3(c) on 5th July 2018. Section 145 of the 2008 Act makes provision for the initiation of a housing moratorium. A pre-commencement housing moratorium is initiated by the taking of a specified step. A housing moratorium that begins on or after 5th July 2018 is initiated by the giving of a notice. The transitional provision in regulation 5 adjusts the wording of section 147 to replace references to “further notice” with “notice”. Its effect is that the provision relating to a further moratorium will apply if a notice mentioned in section 145 is given within 3 years of the end of a pre-commencement housing moratorium, notwithstanding that the pre-commencement housing moratorium was initiated by a specified step taken and the notice given is accordingly not a further notice.

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NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Housing and Planning Act 2016 are brought into operation by earlier commencement regulations:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 9 to 11	31st October 2016	2016/733
Section 12	13th July 2016	2016/733
Sections 13 to 48 (so far as not already commenced)	6th April 2018	2018/393
Section 14(3) and (4) (partially)	3rd November 2017	2017/1052
Section 23(8)	3rd November 2017	2017/1052
Section 26 (partially)	3rd November 2017	2017/1052
Section 33	3rd November 2017	2017/1052
Section 40 to 46 (partially)	6th April 2017	2017/281
Section 47(1) and (2)	6th April 2017	2017/281
Section 47(3)	10th March 2017	2017/281
Section 48 (partially)	6th April 2017	2017/281
Section 49 to 52	6th April 2017	2017/281
Section 53	6th April 2017	2017/281
Sections 54 to 56	6th April 2017	2017/281
Sections 64 and 65	26th May 2016	2016/609
Section 66	13th July 2016	2016/733
Sections 67 and 68	26th May 2016	2016/609
Sections 80 to 91	1st October 2016	2016/956
Section 92	6th April 2017	2017/75
Sections 93 and 94	3rd February 2017	2017/75
Section 102(2) to (6)	3rd February 2017	2017/75
Section 126 (partially)	10th March 2017	2017/281
Section 126	6th April 2017	2017/281
Sections 128 and 129	6th April 2017	2017/281
Section 131	6th April 2017	2017/281
Section 132	1st October 2016	2016/733
Section 133 to 135	19th March 2018	2018/251
Sections 141 and 142	1st October 2016	2016/733
Sections 143 and 144	13th July 2016	2016/733

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 145(1) to 145(4)	1st October 2016	2016/733
Section 145(5)	26th May 2016	2016/609
Sections 146 to 148	1st October 2016	2016/733
Sections 150(4) and 150(5)	13th July 2016	2016/733
Sections 152(2) to 152(4)	13th July 2016	2016/733
Section 154	13th July 2016	2016/733
Section 156	1st October 2016	2016/733
Section 160	6th April 2017	2017/281
Sections 169 and 170	13th July 2016	2016/733
Section 171	1st October 2016	2016/733
Sections 172 to 179	13th July 2016	2016/733
Sections 180 and 181	6th April 2018	2018/251
Section 182	13th July 2016	2016/733
Section 183 (partially)	1st October 2016	2016/956
Section 183 (partially)	3rd February 2017	2017/75
Section 183 (all remaining purposes)	6th April 2017	2017/281
Sections 184 to 189	3rd February 2017	2017/75
Section 190	13th July 2016	2016/733
Section 191	3rd February 2017	2017/75
Section 192 to 195	6th April 2018	2018/251
Section 196(1) to 196(2)(a)	6th April 2018	2018/251
Section 196(3) (partially)	6th April 2017	2017/281
Sections 197 and 198	6th April 2018	2018/251
Section 199(1)	3rd February 2017	2017/75
Section 199(2) (partially)	3rd February 2017	2017/75
Section 200	3rd February 2017	2017/75
Sections 201 to 206	13th July 2016	2016/733
Schedules 1 and 2	6th April 2018	2018/393
Schedule 3– paragraphs 5(3) and 9	3rd November 2017	2017/1052
Schedule 3 (for all remaining purposes)	6th April 2018	2018/393
Schedule 4	6th April 2016	2017/75
Schedule 9 – paragraph 7	10th March 2017	2017/281
Schedule 9 – for all remaining purposes	6th April 2017	2017/281
Schedule 11	1st October 2016	2016/733

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 12 (excluding paragraph 27)	13th July 2016	2016/733
Schedule 14	13th July 2016	2016/733
Schedule 15 – paragraphs 1, 2(1), 2(2), 3(1) and 3(2) (partially)	1st October 2016	2016/956
Schedule 15 – paragraphs 1 to 7 (partially)	3rd February 2017	2017/75
Schedule 15 – paragraphs 1 to 7 (for all remaining purposes)	6th April 2017	2017/281
Schedule 15 – paragraph 8	1st October 2016	2016/956
Schedule 16	13th July 2016	2016/733
Schedule 17	3rd February 2017	2017/75
Schedule 18 – paragraphs 1 to 9	3rd February 2017	2017/75
Schedule 19	13th July 2016	2016/733