

*These notes refer to the Regulation of Registered Social Landlords (Wales) Act 2018 (c.4) which received Royal Assent on 13 June 2018*

# **REGULATION OF REGISTERED SOCIAL LANDLORDS (WALES) ACT 2018**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes are for the Regulation of Registered Social Landlords (Wales) Act which was passed by the National Assembly for Wales on 8 May 2018 and received Royal Assent on 13 June 2018. They have been prepared by the Education and Public Services Group of the Welsh Government in order to assist the reader of the Act.
2. The Explanatory Notes should be read in conjunction with the Act but are not part of it. They are not meant to be a comprehensive description of the Act. Where a section of the Act is self-explanatory and does not seem to require any further explanation or comment, none is given.
3. In these notes, the Housing Act 1996 is referred to as the “1996 Act” and Schedule 1 to the Housing Act 1996 is referred to as “Schedule 1”.

### **SUMMARY AND BACKGROUND**

4. Registered Social Landlords (RSLs) are bodies registered with the Welsh Ministers under Part 1 of the 1996 Act. They can be a registered charity, a society registered under the Co-operative and Community Benefit Societies Act 2014 or a registered company. They must be non-profit-making and have been established for the purpose of, or having among their objects or powers, the provision, construction, improvement or management of houses for letting or hostels.
5. On the 29 September 2016 the Office for National Statistics (ONS) announced that RSLs in Wales should be classified in the national accounts as Public Non-financial Corporations. The reason for this is RSLs are subject to what ONS term government control, mainly through regulatory powers, set out in the 1996 Act. Previously, RSLs were classified as Private Non-financial Corporations.
6. A significant proportion of the RSL development programme is funded through borrowing from the private sector which supplements Welsh Government Social Housing Grant and other funding programmes.
7. The classification of RSLs in Wales as Public Non-financial Corporations will increase Public Sector Net Debt and Public Sector Net Borrowing because any private sector market borrowings taken out by these reclassified public sector RSLs would score as a charge against Welsh Government budgets. Funding for housing would be competing with other Welsh Government priorities and it is likely this would mean fewer new affordable homes and limited options for the Welsh Government to maximise the positive contributions RSLs make to the communities in which they work, including significant local employment and economic benefits. It would also result in uncertainty for stakeholders, including funders who have made long term commitments to funding an independent RSL sector.

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8. This Act amends or removes those elements of central and local government control which led to the decision by ONS to classify RSLs as Public Non-financial Corporations, in order to enable the reclassification of RSLs back to Private Non-financial Corporations.

## **COMMENTARY ON SECTIONS**

### ***Overview***

#### ***Section 1 - Overview of this Act***

9. This Part of the Act is an overview of its main provisions which are explained in more detail in the sections which follow.

### ***Interpretation***

#### ***Section 2 – Meaning of the “1996 Act”***

10. Throughout the Act, the [Housing Act 1996 \(c. 52\)](#) is referred to as the “1996 Act”.

### ***Notification by registered social landlord of constitutional changes, etc.***

#### ***Section 3 - Change of rules or articles***

11. [Section 3](#) amends paragraph 9 and paragraph 11 of Schedule 1.

#### ***Paragraph 9 of Schedule 1***

12. [Paragraph 9](#) of Schedule 1 applies to an RSL which is a registered society under the Co-operative and Community Benefit Societies Act 2014. Registered societies are registered with the Financial Conduct Authority (FCA).
13. [Paragraph 9](#) of Schedule 1 is amended to remove the requirement for an RSL to obtain the consent of the Welsh Ministers to certain rule changes, and instead impose a duty on an RSL to notify the Welsh Ministers.
14. If an RSL makes a change to any of its rules, including its name and the address of its registered office, it does not need to obtain the Welsh Ministers’ consent. It must notify the Welsh Ministers and comply with any notification directions given by them. For more information on notification directions see paragraph 13A of Schedule 1, inserted by section 5 of the Act.

#### ***Paragraph 11 of Schedule 1***

15. [Paragraph 11](#) of Schedule 1 applies to an RSL which is registered as a company (including a company that is a registered charity). The registration of companies is recorded by the registrar of companies. A company must file Articles of Association with the Registrar of Companies. This is a document that contains the purpose of the company as well as the duties and responsibilities of its members. The company must also send a copy of any resolution which makes alterations to its articles to the registrar of companies.
16. [Paragraph 11](#) of Schedule 1 is amended by section 3, removing the requirement for an RSL to obtain the consent of the Welsh Ministers to certain rule changes, and instead impose a duty on an RSL to notify the Welsh Ministers of those changes.
17. If an RSL which is registered as a company makes changes to its name, the address of its registered office or its articles of association, it does not need to obtain the Welsh Ministers’ consent but must notify the Welsh Ministers and comply with any notification directions given by them. For more information on notification directions see paragraph 13A of Schedule 1, inserted by section 5 of the Act.

#### **Section 4 – Amalgamation and other structural changes**

18. Section 4 amends paragraphs 12 to 14 of Schedule 1.

#### **Paragraph 12 of Schedule 1**

19. Paragraph 12 of Schedule 1 applies to an RSL which is a registered society under the Co-operative and Community Benefit Societies Act 2014.
20. Section 109 of the Co-operative and Community Benefit Societies Act 2014 allows a registered society to pass a special resolution to amalgamate with another society. Section 110 of that Act allows a registered society to pass a special resolution to transfer engagements between societies. Section 112 of that Act allows a registered society to pass a resolution to convert itself into a company, amalgamate with a company or transfer its engagements to a company. A copy of the resolution must be forwarded to the FCA.
21. A society can also pass a special resolution that it be wound up voluntarily under the Insolvency Act 1986. If a society does this, it must forward a copy of the resolution to the FCA.
22. A society which is solvent can also apply to the FCA to register an instrument of dissolution which will allow it to be dissolved and terminate its registration as a society.
23. Amendments are made to paragraph 12 of Schedule 1 to remove the requirements for an RSL which is a registered society to obtain the consent of the Welsh Ministers to a resolution:
- to amalgamate with another society, transfer its engagements to another society, convert itself into a registered company, amalgamate with a company or transfer its engagements to a company; or
    - to be wound up voluntarily under the Insolvency Act 1986 or by an instrument of dissolution, and
    - Instead a duty will be imposed on an RSL to notify the Welsh Ministers of such resolutions.
24. As a result of the amendments made to paragraph 12 of Schedule 1 by section 4, an RSL which is a registered society does not have to obtain the consent of the Welsh Ministers to a resolution to amalgamate with another society, transfer its engagements to another society, convert itself into a registered company, amalgamate with a company or transfer its engagements to a company. The RSL must notify the Welsh Ministers and comply with any notification directions given by them. For more information on notification directions see paragraph 13A of Schedule 1, inserted by section 5 of the Act.
25. In addition, any notification to the Welsh Ministers of any of the resolutions referred to in the paragraph above (with the exception of resolutions for conversion of a society to a company) must be accompanied by a statement setting out the consultation the RSL carried out with its tenants before passing the resolution in question .
26. The consent of the Welsh Ministers is not required before a resolution is passed that the RSL is wound up voluntarily under the Insolvency Act 1986 or if the RSL is to be dissolved by an instrument of dissolution. The RSL must notify the Welsh Ministers and comply with any notification directions given by them. For more information on notification directions see paragraph 13A of Schedule 1, inserted by section 5 of the Act.

#### **Paragraph 13 of Schedule 1**

27. Paragraph 13 applies to RSLs which are registered companies whose registration as a social landlord has been recorded by the registrar of companies.

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28. Section 899 of the Companies Act 2006 allows a company to apply for a court order to make a compromise or arrangement with its creditors or members. Section 900 of the same Act allows the company to apply for a court order for, among other things, the transfer of the whole of or any part of its undertaking, or its property or liabilities, for the purposes of reconstruction or amalgamation of the company. The company must send the office copy of the order to the registrar of companies.
29. An RSL which is a company can also pass a resolution under section 115 of the Co-operative and Community Benefit Societies Act 2014 to convert into a registered society and must forward a copy of the resolution to the registrar of companies.
30. A director, administrator or liquidator of the company can also make a voluntary arrangement with the company's creditors under Part 1 of the Insolvency Act 1986. This arrangement must be approved by company members and creditors.
31. A company can pass a special resolution that it be wound up voluntarily under the Insolvency Act 1986 and, in accordance with section 30 of the Companies Act 2006, a copy of the resolution must be forwarded to the registrar of companies.
32. Amendments are made to paragraph 13 of Schedule 1 to remove the requirements for an RSL, which is a company, to obtain the consent of the Welsh Ministers in order to take any of the steps listed in the four preceding paragraphs.
33. As a result of the amendment made by section 4, the position under paragraph 13 is as follows:
  - A company does not need to obtain the consent of the Welsh Ministers to apply for a court order under section 899 of the Companies Act 2006, but must notify the Welsh Ministers and comply with any notification directions given by them.
  - A company does not need to obtain the consent of the Welsh Ministers to apply for a court order under section 900 of the Companies Act 2006, but must notify the Welsh Ministers and comply with any notification directions given by them.
  - If a company passes a resolution under section 115 of the Co-operative and Community Benefit Societies Act 2014 for conversion into a registered society it does not need the consent of the Welsh Ministers but must notify the Welsh Ministers and comply with any notification directions given by them.
  - The Welsh Ministers' consent is no longer required for any voluntary arrangement under Part 1 of the Insolvency Act 1986 in relation to a company but the RSL must notify the Welsh Ministers and comply with any notification directions given by them.
  - The Welsh Ministers' consent is not required before a company passes a special resolution that it be wound up voluntarily under the Insolvency Act 1986. The RSL must notify the Welsh Ministers and comply with any notification directions given by them.

For more information on notification directions see paragraph 13A of Schedule 1, inserted by section 5 of the Act.

### **Paragraph 14 of Schedule 1**

34. **Section 4** also removes paragraph 14 of Schedule 1, removing the Welsh Ministers' power to petition for winding up of an RSL which is a company or registered society under the Insolvency Act 1986 where an RSL is either failing to carry out its purposes or objects properly, or if it is unable to pay its debts.

### **Section 5 - Directions about notifications to be given to Welsh Ministers**

35. **Section 5** adds a further paragraph 13A to Schedule 1.

36. Under sections 3 and 4 of the Act, duties are inserted into Schedule 1 of the 1996 Act requiring RSLs to notify the Welsh Ministers of specific changes. This additional paragraph 13A allows the Welsh Ministers to issue directions specifying how they will be notified, what a notification will contain and to set a deadline for notifications. It also enables them to vary these requirements according to circumstances. A direction can apply to all or specific RSLs or RSLs of a specific description and may apply to all notifications, notifications of a certain description or in particular circumstances.
37. A direction can also dispense with a requirement to notify the Welsh Ministers and may vary or revoke a previous direction.
38. An RSL must comply with a direction which applies to it.

### ***Powers exercisable in respect of officers and management of registered social landlord***

#### ***Overview***

39. The threshold for intervention by the Welsh Ministers varies depending on the relevant provision, however, the main threshold (formerly where the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the affairs of the RSL) is changed. Sections 6 to 12 of the Act make the changes to the threshold.
40. As a result of the amendments, the threshold for intervention applies where the Welsh Ministers are satisfied that there has been “failure to comply with a requirement imposed by or under an enactment”. This will include breaches of UK Acts, Acts or Measures of the National Assembly for Wales, regulations and other secondary legislation, as well as any directions or standards made under an enactment with which an RSL is required to comply. As the threshold includes a breach of standards made under section 33A of the 1996 Act, where, under the 1996 Act, there were separate intervention grounds on the basis of a breach of a standard, these have, in general, simply been replaced with the new threshold.
41. Section 33A of the 1996 Act enables the Welsh Ministers to set standards of performance to be met by RSLs in connection with their functions relating to the provision of housing, and matters relating to their governance and financial management.

### ***Section 6 – Removal or appointment of officer of registered social landlord***

42. **Section 6** amends paragraphs 4 and 6 to 8 of Schedule 1.

#### **Paragraph 4 of Schedule 1**

43. Amendments are made to paragraph 4 of Schedule 1 to amend the threshold at which the Welsh Ministers may remove an officer under paragraph 4(2)(g). As a result, the position is as follows:
  - The Welsh Ministers are able to remove an officer of an RSL under a variety of circumstances.
  - A list of these circumstances is set out in paragraph 4(2) of Schedule 1. The list is unchanged, except for paragraph 4(2)(g), which is amended and allows an officer to be removed where the officer cannot be found or does not act and their absence or failure to act is impeding the RSL’s compliance with a requirement imposed by or under an enactment.

### **Paragraphs 6 to 8 of Schedule 1**

44. Paragraphs 6, 7 and 8 of Schedule 1 give the Welsh Ministers powers to appoint persons to be an officer of RSLs which are registered charities, companies, or registered societies respectively.
45. Amendments are made to paragraphs 6, 7 and 8 of Schedule 1 to amend the threshold in respect of one of the grounds under which the Welsh Ministers can appoint a person to be an officer of an RSL.
46. As a result, the position is that the Welsh Ministers can appoint a person to be an officer of an RSL which is a registered charity, a company or a registered society in place of a person whom they have removed or, where there are no officers, or where the Welsh Ministers are of the opinion that the appointment is necessary in order to ensure that the RSL complies with a requirement imposed by or under an enactment.

### ***Section 7 – Tender or transfer of registered social landlord’s management functions***

47. Section 7 amends paragraphs 15B and 15D of Schedule 1. It applies to all RSLs.

### **Paragraph 15B of Schedule 1**

48. Amendments are made to the threshold at which the Welsh Ministers can require an RSL to tender its management functions under paragraph 15B of Schedule 1. The threshold had been that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL’s affairs, it is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment.
49. As a result, the position is as follows:
  - If an RSL has failed to comply with a requirement imposed by or under an enactment, the Welsh Ministers are able to require the RSL to tender all, or some, of its management functions.
  - The paragraph does not apply where the failure to comply relates only to the RSL’s provision of housing in England.

### **Paragraph 15D of Schedule 1**

50. Amendments are made to one of the thresholds at which the Welsh Ministers can require an RSL to transfer its management functions under paragraph 15D of Schedule 1. One of the thresholds had been that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL’s affairs, it is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment. The other threshold remains unchanged.
51. As a result, the position is as follows:
  - If, as a result of an inquiry or an audit (under paragraph 20 or 22 of Schedule 1), the Welsh Ministers are satisfied that an RSL has failed to comply with a requirement imposed by or under an enactment, the Welsh Ministers can require the RSL to transfer management functions to a person specified by them.
  - The paragraph does not apply where the failure relates only to the RSL’s provision of housing in England.

### ***Section 8 - Appointment of manager of registered social landlord***

52. Section 8 amends the threshold at which the Welsh Ministers can appoint a manager of an RSL under paragraph 15F of Schedule 1. The threshold had been that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the

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RSL's affairs, it is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment.

53. As a result the position is as follows:
- If the Welsh Ministers are satisfied that an RSL has failed to comply with a requirement imposed by or under an enactment, the Welsh Ministers can appoint an individual as a manager of the RSL, or require the RSL to appoint an individual as a manager.
  - The appointment or requirement may relate to the management of the RSL generally, or specified affairs.
  - This paragraph does not apply where the failure relates only to the RSL's provision of housing in England.

### **Section 9 – Amalgamation effected by Welsh Ministers**

54. **Section 9** amends one of the thresholds at which the Welsh Ministers can amalgamate RSLs which are registered societies under paragraph 15H of Schedule 1. This paragraph applies to RSLs which are registered societies. One of the thresholds had been that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL's affairs, it is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment. The other threshold remains unchanged.

55. As a result, the position is as follows:
- If, as a result of an inquiry or an audit (under paragraph 20 or 22 of Schedule 1), the Welsh Ministers are satisfied that an RSL which is a registered society has failed to comply with a requirement imposed by or under an enactment, the Welsh Ministers may make and execute on behalf of the society an instrument providing for its amalgamation with another registered society.
  - This paragraph does not apply if the failure relates only to the RSL's provision of housing in England.

### ***Powers exercisable in respect of inquiries, etc.***

#### **Section 10 – Inquiries and reports**

56. **Section 10** amends paragraphs 20, 23, 24 and 27 of Schedule 1.

#### **Overview**

57. **Paragraph 20** of Schedule 1 gives the Welsh Ministers the power to direct an inquiry into the affairs of an RSL, the threshold for the exercise of this power is amended by section 10. Paragraph 22 of Schedule 1 of the 1996 Act states that for the purposes of such an inquiry, the Welsh Ministers may require the accounts and balance sheet of the RSL concerned, or other RSLs specified by Welsh Ministers, to be audited by a qualified auditor appointed by the Welsh Ministers. Paragraph 20(5) allows the person or persons conducting the inquiry, during the course of the inquiry, to make one or more interim reports on matters that appear to them to be appropriate.

#### **Paragraph 20 of Schedule 1**

58. Amendments are made to the threshold at which the Welsh Ministers can direct an inquiry into the affairs of an RSL under paragraph 15H of Schedule 1. The threshold had been that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL's affairs, this is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment.

59. As a result, the Welsh Ministers may direct an inquiry if it appears to them that the RSL may have failed to comply with a requirement imposed by or under an enactment.

### **Paragraph 23 of Schedule 1**

60. Amendments are made to one of the thresholds at which the Welsh Ministers can make orders under this paragraph 23 of Schedule 1. One of the thresholds was that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL's affairs and immediate action was required to protect the interest of the RSL's tenants or the RSL's assets. The threshold is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment and that such action is required. The other threshold remains unchanged.
61. As a result, the position is as follows:
- The Welsh Ministers can make an order under paragraph 23 where an inquiry has been directed under paragraph 20 and the Welsh Ministers have reasonable grounds to believe that that an RSL has failed to comply with a requirement imposed by or under an enactment, and that immediate action is needed to protect the interests of the tenants of the RSL or to protect the RSL's assets.
  - The Welsh Ministers can also make an order under paragraph 23 where an interim report has been made under paragraph 20(5) as a result of which the Welsh Ministers are satisfied that an RSL has failed to comply with a requirement imposed by or under an enactment.
  - The orders that can be made are ones suspending any officer, employee or agent of the RSL who appear to the Welsh Ministers to have been responsible for the failure; directing any bank or other person who holds money or securities on behalf of the RSL not to part with the money or securities without the approval of the Welsh Ministers; or restricting the transactions which may be entered into, or the nature or amount of the payments which may be made, by the RSL without the approval of the Welsh Ministers.

### **Paragraph 24 of Schedule 1**

62. Amendments are made to the threshold at which the Welsh Ministers can make orders under this paragraph 24 of Schedule 1. The threshold had been that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL's affairs, this is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment.
63. As a result, the position under paragraph 24 is as follows:
- The Welsh Ministers may make an order where, following an inquiry or audit (under paragraph 20 or 22), they are satisfied that an RSL has failed to comply with a requirement imposed by or under an enactment.
  - The orders that can be made are ones removing, or suspending for up to six months, any officer, employee or agent of the RSL who appear to the Welsh Ministers to have been responsible for the failure; directing any bank or other person who holds money or securities on behalf of the RSL not to part with the money or securities without the approval of the Welsh Ministers; or restricting the transactions which may be entered into, or the nature or amount of the payments which may be made, by the RSL without the approval of the Welsh Ministers.

### **Paragraph 27 of Schedule 1**

64. An amendment is made to one of the thresholds at which the Welsh Ministers may direct an RSL to make a transfer of land under paragraph 27 of Schedule 1. One of the thresholds was that the Welsh Ministers were satisfied that there had been misconduct

or mismanagement in the RSL's affairs and immediate action was required to protect the interest of the RSL's tenants or the RSL's assets. The threshold is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment and that such action is required. The other threshold remains unchanged.

65. As a result, the position is that the Welsh Ministers may direct a transfer where, as a result of an inquiry under paragraph 20 or an audit under paragraph 22, the Welsh Ministers are satisfied that that the RSL has failed to comply with a requirement imposed by or under an enactment. The Welsh Ministers may also do so if they are satisfied that the management of its land would be improved if it were transferred.

### ***Enforcement Notices and Penalties***

#### ***Section 11 - Enforcement notices***

66. **Section 11** amends section 50C of the Housing Act 1996 which gives the Welsh Ministers the power to give an enforcement notice to an RSL.
67. **Section 11** amends Case 2 (one of 9 cases, of which the Welsh Ministers must be satisfied have arisen prior to giving an enforcement notice). The case was that there had been misconduct or mismanagement in the affairs of an RSL. As a result of the amendment, the case is now where the RSL has failed to comply with a requirement imposed by or under an enactment.
68. As a result of the amendment, the position is as follows:
- The Welsh Ministers are able to give an enforcement notice to an RSL if they are satisfied that any of the list of 9 cases applies.
  - The Welsh Ministers must be satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment, and also that the failure does not fall within any other of the 8 cases.
  - The Welsh Ministers must also be satisfied that giving an enforcement notice is appropriate (whether it is likely to be sufficient in itself or a prelude to further action).
69. Subsection (10A) is added to section 50C to ensure that where another case applies, the grounds specified in that case should be used as the basis for the enforcement notice. For example, if there has been a breach of a standard issued under section 33A of the 1996 Act, Case 1 would be the appropriate ground for the enforcement notice. Case 2 will only apply if no other case applies.

#### ***Section 12 - Requirement to pay a penalty***

70. **Section 12** amends section 50H of the 1996 Act, which gives the Welsh Ministers the power to require a registered social landlord to pay a penalty.
71. **Section 11** amends Case 2 (one of 5 cases, of which the Welsh Ministers must be satisfied have arisen prior to requiring an RSL to pay a penalty). The case was that there had been misconduct or mismanagement in the affairs of an RSL. As a result of the amendment, the case is now where the RSL has failed to comply with a requirement imposed by or under an enactment.
72. As a result of the amendment, the position is as follows:
- The Welsh Ministers may require an RSL to pay a penalty if they are satisfied that any of the list of 5 cases applies.
  - The Welsh Ministers must be satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment, and also that the failure does not fall within any other of the 5 cases.

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- The Welsh Ministers must also be satisfied that the imposition of a penalty is appropriate (whether or not as part of a response including other action).
73. Subsection (6A) is added to section 50H to ensure that where another case applies, the grounds specified in that case should be used as the basis for the penalty. For example, if there has been a breach of a standard issued under section 33A of the 1996 Act, Case 1 would be the appropriate ground for the penalty. Case 2 will only apply if no other case applies.

## ***Disposals of land***

### ***Overview***

74. Prior to amendments being made by the Act, RSLs were required to obtain the consent of the Welsh Ministers for disposals of land under section 9 of the 1996 Act, section 171D of the Housing Act 1985, and sections 81 and 133 of the Housing Act 1988. Sections 13 and 14 of the Act remove those requirements and impose a duty to notify the Welsh Ministers.
75. Section 9 of the 1996 Act (as amended by section 14 of the Act) will apply to any disposal by an RSL, meaning the RSL must notify the Welsh Ministers of a disposal and comply with any notification directions given by them.

### ***Section 13 –Disposal of land: consent***

76. [Section 13](#) amends section 171D of the [Housing Act 1985 \(c. 68\)](#) and repeals section 81, and amends section 133 of the [Housing Act 1988 \(c. 50\)](#)

### **Section 171D of the Housing Act 1985**

77. Section 171D of the Housing Act 1985 relates to the preserved right to buy. Tenants of RSLs who were previously secure tenants of a local authority and became assured tenants because ownership of their homes were transferred to an RSL may have what is known as the preserved right to buy.
78. Amendment is made to section 171D of the Housing Act 1985 to remove the requirement of an RSL to obtain the consent of the Welsh Ministers before disposal by the RSL of a dwelling house which is subject to the right to buy or the preserved right to buy, unless the disposal is to a person or persons exercising those rights.

### **Section 81 of the Housing Act 1988**

79. Section 81 of the Housing Act 1988 relates to subsequent disposals by RSLs where the original disposal was by a housing action trust.
80. Under section 81 of the Housing Act 1988, if a housing action trust wished to dispose of a house which was the subject of a secure tenancy or an introductory tenancy to an RSL, the conveyance needed to include a requirement that the consent of the Welsh Ministers (if the land was in Wales) or the Secretary of State (if the land was in England) was required in the event that the RSL wished subsequently to dispose of the house.
81. [Section 81](#) is repealed with the effect that RSLs are not required to obtain the consent of the Welsh Ministers or the Secretary of State before they dispose of the a house referred to in the paragraph above.

### **Section 133 of the Housing Act 1988**

82. Section 133 of the Housing Act 1988 relates to subsequent disposals by RSLs where the original disposal was by a local authority.

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83. Under section 133 of the Housing Act 1988, if an RSL had acquired land or a house from a local authority under section 32 or 43 of the Housing Act 1985, and the consent relating to the original disposal did not provide otherwise, the consent of the Welsh Ministers (if the land was in Wales) or the Secretary of State (if the land was in England) was required in the event that the RSL wished subsequently to dispose of the house
84. Amendments are made to section 133 of the Housing Act 1988 to remove the requirement of an RSL to obtain the consent of the Welsh Ministers or the Secretary of State before disposal of land or a house referred to in the paragraph above.

#### ***Section 14 - Disposal of land: notification***

85. [Section 14](#) amends section 9 of the 1996 Act relating to disposal of land by an RSL to remove the requirement to obtain the consent of the Welsh Ministers on the disposal of land, and instead impose a requirement to notify the Welsh Ministers on any such disposal.
86. As a result, the position is now as follows:
- Under section 8 of the 1996 Act, an RSL can dispose of land it holds in a manner which it thinks fit. But, if an RSL wants to dispose of land, it must notify the Welsh Ministers and comply with any notification directions given by them.
  - The Welsh Ministers may issue directions about how they should be notified. A direction may be about how and when notification must be given, or what it must contain or may set a deadline for giving a notification.
  - The Welsh Ministers can specify to which RSLs a direction applies and to which disposals or types of disposals it applies. A direction can also dispense with a requirement to notify the Welsh Ministers or revoke or vary a previous direction.
  - An RSL must comply with a direction which applies to it.

#### ***Section 15 – Disposal Proceeds fund***

87. [Section 15](#) omits sections 24 to 26 of the Housing Act 1996.
88. [Sections 24 to 26](#) are repealed in order to remove the requirement to show disposal proceeds separately in accounts, and to remove the ability of the Welsh Ministers to determine how such proceeds should be used.

#### ***Board membership and voting rights***

##### ***Section 16 - Limit on local authority board membership and voting rights***

89. [Schedule 1](#) inserts a new Chapter 1A into Part 1 of the 1996 Act (social rented sector regulated by the Welsh Ministers), to place restrictions on the control that local authorities may have on RSLs. Further notes are set out in paragraphs 92-105 below.

##### ***Section 17 - Minor and consequential amendments***

90. [Schedule 2](#) sets out amendments made to legislation as a consequence of the other provisions set out in this Act.

##### ***Section 18- Power to make further consequential amendments etc***

91. [Section 18](#) provides that the Welsh Ministers may make amendments which are consequential on or for the purpose of giving full effect to any provision made by or under this Act.

### **Section 19 - Coming into force**

92. Provisions of the Act will come into force in accordance with a commencement order made by Welsh Ministers, other than sections 19 and 20 which come into force on the day after the day on which the Act receives Royal Assent.

### **Section 20 – Short title**

93. This section establishes the Act's title as the [Regulation of Registered Social Landlords \(Wales\) Act 2018](#)

### **Schedule 1**

94. [Schedule 1](#) is introduced by section 16.
95. The Schedule introduces a new Chapter 1A into Part 1 of the 1996 Act. Chapter 1A contains sections 7A to 7J.
96. This Chapter limits a local authority's influence over the board of an RSL, for example, having reserved places on the board and the power of veto over certain matters, and removes their voting rights as member.
97. Section 7A defines the key terms for the purposes of Chapter 1A.
98. Under section 7B, no appointment may be made to a board of an RSL which would result in local authority appointees amounting to more than 24% of the board members of the RSL. Any appointment made to the board which would, but for section 7B, give rise to more than 24% of the board members being local authority appointees has no effect.
99. In addition, provision is made so that to the extent that any provision in the constitution or rules of an RSL conflicts with this requirement, that provision has no effect. See also section 7I in respect of provisions in agreements which are to have no effect.
100. Section 7C sets out the procedure for RSLs and local authorities to follow to reduce the number of local authority appointees on an RSL board to ensure that no more than 24% of the members of the board of the RSL are local authority appointees (the 24% limit). If an RSL needs to remove a member from its board to comply with the 24% limit it has four months to do so from the date section 7C comes into force. However, subsection (3) of section 7C provides that the RSL cannot remove a member until two months after section 7C comes into force. The purpose of this restriction is to give the local authority which appointed the members the opportunity to nominate which of its appointees are to be removed under section 7C (see next paragraph).
101. A local authority can nominate which of the local authority appointees are to be removed in order to comply with the 24% limit, but must do so within two months of section 7C coming into force. If a local authority nominates appointees to be removed, those appointees must be removed by the RSL, and the RSL may carry out the removal without having to wait for two months from the date section 7C comes into force. If a local authority does not nominate anyone for removal before the end of the two months, an RSL will have a further two months to remove such appointees to comply with the 24% limit. In the absence of a local authority nomination, the appointees to be removed should be selected by a majority vote of the non-local authority board members (see section 7D).
102. Under section 7E, if an RSL's constitution or rules state that there must be at least one or more local authority appointees present in order for a meeting to be quorate, that provision is of no effect. See also section 7I in respect of provisions in agreements which are to have no effect.
103. Under section 7F, if there is provision in an RSL's constitution or rules which requires more than 75% of the votes cast to pass a resolution, that provision will have effect as

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if it requires only 75% of the votes cast to pass the resolution. See also section 7I in respect of provisions in agreements which are to have no effect.

104. Under section 7G, if there is provision in an RSL's constitution or rules which requires the consent of the local authority or the local authority appointee before the RSL's rules or constitution can be changed, or provision which gives a local authority or local authority appointee the power of veto, that provision is of no effect. See also section 7I in respect of provisions in agreements which are to have no effect.
105. Under section 7H, if there is a provision in the rules or constitution of an RSL which gives a local authority the right to vote on resolutions of the RSL in the local authority's capacity as member of the RSL, that provision is of no effect. This removes the voting rights of local authorities as members of an RSL. See also section 7I in respect of provisions in agreements which are to have no effect.
106. Under section 7I, a provision in an agreement between an RSL and another person which would, if it were included in an RSL's rules or constitution, be treated as having no effect because of this Chapter, will have no effect. This will capture, for example, any contractual agreements entered into between a local authority and an RSL as a result of stock transfer.
107. The Welsh Ministers may, by order, provide that any or all of the provisions of Chapter 1A do not apply to RSLs which are wholly-controlled local authority subsidiaries.

## **Schedule 2**

108. **Schedule 2** sets out minor and consequential amendments made to legislation as a consequence of the other provisions set out in this Act.

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

109. References to the requirement for RSLs to obtain the consent of the Welsh Ministers for disposal of property are removed from Schedule 10 to the **Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)** because this requirement has been removed.

## **Housing Act 1996 (c. 52)**

110. Sections 8(3), 9, 10, 11(1), 12A(1) and 13(1) of the 1996 Act are amended in order to remove references to the requirement for RSLs to obtain the consent of the Welsh Ministers because this requirement has been removed and replaced with a duty to notify the Welsh Ministers.
111. Section 16 of the 1996 Act is amended to reflect the fact that the disposal proceeds fund will cease to exist.
112. Section 36 of the 1996 Act allows the Welsh Ministers to issue guidance with respect to the management of housing accommodation in England by RSLs. Subsection (7) is removed to remove references to the concept of "misconduct and mismanagement" which has been removed by the Act.
113. Amendments are made to section 42 to reflect the removal of section 10 of the 1996 Act.
114. **Section 52** is amended to include reference to the new order making power in Chapter 1A of the 1996 Act.
115. Section 63 of the 1996 Act is amended to add a definition of "notify" as "notify in writing".
116. In Schedule 1 to the 1996 Act, amendments are made to remove references to "misconduct or mismanagement".

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## **RECORD OF PROCEEDINGS IN NATIONAL ASSEMBLY FOR WALES**

117. The following table sets out the dates for each stage of the Act's passage through the National Assembly for Wales. The Record of Proceedings and further information on the passage of this Act can be found on the National Assembly for Wales' website at:

<http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?IIId=19962>

<b>Stage</b>	<b>Date</b>
Introduced	16 October 2017
Stage 1 – Debate	13 February 2018
Stage 2 Scrutiny Committee – consideration of amendments	12 March 2018
Stage 3 Plenary - consideration of amendments	24 April 2018
Stage 4 Approved by the Assembly	8 May 2018
Royal Assent	13 June 2018