

*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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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.

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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.