

REGULATION OF REGISTERED SOCIAL LANDLORDS (WALES) ACT 2018

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

*These notes refer to the Regulation of Registered Social Landlords (Wales) Act 2018 (c.4)
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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.