

REGULATION OF REGISTERED SOCIAL LANDLORDS (WALES) ACT 2018

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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:

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

- 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.
 - 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.