

REGULATION OF REGISTERED SOCIAL LANDLORDS (WALES) ACT 2018

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

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

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.