

HOUSING (WALES) MEASURE 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Registered Social Landlords

Chapter 4 – Enforcement

Amendments relating to inquiries or audits

188. **Sections 79 to 82** make amendments to paragraphs 23 to 26 of Schedule 1 to the 1996 Act to amend the Welsh Ministers' powers in relation to matters consequential to the carrying out of inquiries or audits under that Schedule.

Section 79 - Restrictions on dealings during an inquiry

189. This section amends paragraph 23 of Schedule 1 to the 1996 Act by inserting a new sub-paragraph (2A). This sub-paragraph requires the Welsh Ministers to take reasonable steps to give notice to a RSL before making an order to restrict the dealings of the RSL during an inquiry. It also requires the Welsh Ministers to take reasonable steps to give notice to the landlord and the person to whom the order will be directed where the Welsh Ministers propose to make an order directing a bank (or other person) holding money or securities on behalf of a landlord not to part with the money or securities during an inquiry.

Section 80 - Restrictions on dealings following an inquiry or extraordinary audit

190. This section makes an equivalent amendment to that made by section 79 by amending paragraph 24 of Schedule 1 to the 1996 Act. It does this by inserting a new subparagraph (3A) in relation to dealings following an inquiry or audit. A new subparagraph (7) is also inserted into paragraph 24, stating that any restriction on dealings following an inquiry or extraordinary audit will have effect until it is revoked by the Welsh Ministers.

Section 81 - Disqualification of removed person

191. This section amends paragraph 25 of Schedule 1 to the 1996 Act by inserting a new sub-paragraph (4A). Paragraph 25 disqualifies a person removed from office under certain statutory provisions from acting as an officer of a RSL, and requires the Welsh Ministers to keep a register of all persons removed from office under those provisions. The Welsh Ministers may, however, waive a person's disqualification. Where they do so, new sub-paragraph (4A) will require the Welsh Ministers to show the details of any waivers in the register.

Section 82 - Acting while disqualified

192. This section makes a number of amendments to paragraph 26 of Schedule 1 to the 1996 Act.

193. The effect of the amendment in subsection (2) is to increase the period for which a person guilty of an offence of acting as an officer of a RSL while disqualified may be imprisoned on summary conviction. At present, such a person may be imprisoned for up to six months, but subsection (2) will enable such a person to be imprisoned for up to 12 months.
194. The effect of subsection (3) is to prevent this increased period of imprisonment from being imposed in relation to an offence committed before section 282 of the Criminal Justice Act 2003 has been commenced.
195. Under paragraph 26 of Schedule 1 to the 1996 Act, the Welsh Ministers may order a person to repay sums to a RSL or to the Welsh Ministers where that person has acted as an officer of that landlord while disqualified and has received payments or benefits in connection with that role. Subsection (4) inserts a new sub-paragraph into paragraph 26 to enable the landlord or the Welsh Ministers to recover that sum as a debt if the disqualified person fails to comply with an order.