



# Housing (Wales) Measure 2011

## 2011 nawm 5

### PART 1

#### SUSPENSION OF THE RIGHT TO BUY AND RELATED RIGHTS

#### CHAPTER 1

#### DIRECTIONS SUSPENDING THE RIGHT TO BUY AND RELATED RIGHTS

#### **1 Power to apply for direction suspending the right to buy and related rights**

- (1) A local housing authority may apply to the Welsh Ministers for a direction suspending the right to buy and related rights in its area for a period of up to five years if—
  - (a) within the period of six months preceding the application, the authority has completed a consultation exercise in accordance with section 2, and
  - (b) in the light of that exercise, and having considered any other relevant information, the authority concludes that the condition described in subsection (2) exists.
- (2) The condition (referred to in this Part as the “housing pressure condition”) is that—
  - (a) within the local housing authority's area, the demand for social housing substantially exceeds its supply or is likely to do so, and
  - (b) that imbalance between supply and demand is likely to increase as a result of the exercise of the right to buy and related rights.
- (3) For the purposes of this Part, the following are rights related to the right to buy—
  - (a) the right to buy as extended under section 171 of the Housing Act 1985;
  - (b) the preserved right to buy under section 171A of the Housing Act 1985;
  - (c) the right to acquire under section 16 of the Housing Act 1996;
  - (d) the right to acquire as extended under section 16A of the Housing Act 1996.
- (4) A local housing authority may conclude that paragraph (a) of subsection (2) is met—
  - (a) in relation to all social housing in its area;

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- (b) in relation to all social housing in a certain part or parts of its area;
  - (c) in relation to a certain type or types of social housing (whether throughout its area or in a certain part or parts of its area).
- (5) For the purposes of this Part, a type of social housing may be identified by reference to any, or any combination of, the following—
- (a) special needs of tenants;
  - (b) description of dwelling-house;
  - (c) type of social housing provider (which may include a particular provider).

**Commencement Information**

**I1** S. 1 in force at 3.9.2012 by S.I. 2012/2091, arts. 1(2), 2

## 2 Consultation

- (1) This section provides for the consultation exercise that a local housing authority must carry out before it may apply to the Welsh Ministers for a direction suspending the right to buy and related rights.
- (2) The consultation exercise must seek views on whether there is a need for the authority to apply for such a direction.
- (3) The persons to be consulted are—
- (a) each social housing provider—
    - (i) which appears to the authority to be a landlord of a dwelling-house situated in the authority's area (but the authority need not consult itself), and
    - (ii) which the authority considers would be affected if its application for a direction is granted;
  - (b) any body or bodies appearing to the authority to represent the interests of tenants of dwelling-houses within the authority's area where—
    - (i) the landlords of those dwelling-houses are social housing providers, and
    - (ii) the authority considers that the tenants of those dwelling-houses would be affected if its application for a direction is granted;
  - (c) any other local housing authority whose area is adjacent to the area to which it is proposed that the direction is to apply, and
  - (d) such other persons as the authority considers appropriate.

**Commencement Information**

**I2** S. 2 in force at 3.9.2012 by S.I. 2012/2091, arts. 1(2), 2

## 3 Application for direction suspending the right to buy and related rights

- (1) This section sets out the requirements to be met by a local housing authority's application to the Welsh Ministers for a direction suspending the right to buy and related rights.

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- (2) The application must—
- (a) include a draft of the direction which—
    - (i) clearly identifies the area to which it is to apply (whether that is the whole of the authority's area or one or more parts of its area);
    - (ii) states whether or not the direction is to apply to every relevant dwelling-house within that area;
    - (iii) if the direction is not to apply to every relevant dwelling-house within that area, clearly describes the type or types of relevant dwelling-house to which it is to apply;
    - (iv) states the period for which it is to have effect (which must be no longer than five years from the date on which, if the application were granted, it would be issued);
  - (b) explain why the authority has concluded that the housing pressure condition exists;
  - (c) explain why the authority is of the opinion that the direction is an appropriate response to its having concluded that the housing pressure condition exists;
  - (d) explain what other action the authority proposes to take to reduce the imbalance between the demand for social housing and its supply within its area during the period for which the direction is to have effect, and
  - (e) describe what the authority has done to discharge its obligation to carry out a consultation exercise under section 2.

#### Commencement Information

**I3** S. 3 in force at 3.9.2012 by S.I. 2012/2091, arts. 1(2), 2

## 4 Consideration by the Welsh Ministers of an application

- (1) If the Welsh Ministers are of the opinion that a local housing authority's application for a direction suspending the right to buy and related rights meets the requirements of section 3, they must consider the application.
- (2) If the Welsh Ministers are of the opinion that an application does not meet the requirements of section 3 they must refuse to consider it unless, in their opinion, the failure to comply with the requirements is immaterial or insignificant in which case they may consider the application.
- (3) The Welsh Ministers must notify an authority in writing if they—
  - (a) are obliged under subsection (1) to consider an application for a direction suspending the right to buy and related rights made by the authority;
  - (b) decide under subsection (2) to consider such an application, or
  - (c) are obliged under subsection (2) to refuse to consider an application.
- (4) The day after that on which a notice was sent under subsection (3)(a) or (b) is to be treated as the date on which the Welsh Ministers decided to consider the application.
- (5) If, before the Welsh Ministers have decided to consider an application, a local housing authority provides further information under section 27, it is to be treated as if it formed part of the application.

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**Commencement Information**

**I4** S. 4 in force at 3.9.2012 by S.I. 2012/2091, arts. 1(2), 2

**5 Decision of the Welsh Ministers on the application**

- (1) This section applies where the Welsh Ministers are considering a local housing authority's application for a direction suspending the right to buy and related rights in accordance with section 4(1) or (2).
- (2) The Welsh Ministers may reject the application (without considering whether subsection (4) requires them to grant it) if they are of the opinion that—
  - (a) the authority has failed to comply with a requirement imposed under section 27 in relation to the application, or
  - (b) where the authority is required to have a strategy relating to housing under section 87(1) of the Local Government Act 2003, the strategy, in so far as it relates to any imbalance between demand for and supply of social housing in the authority's area, is inadequate.
- (3) The Welsh Ministers must not make a decision under subsection (2)(b) unless they have considered—
  - (a) any statement that the authority is required to prepare under section 87(2) of the Local Government Act 2003, and
  - (b) any other information which the Welsh Ministers consider relevant.
- (4) The Welsh Ministers must grant the application if—
  - (a) they agree with the authority's conclusion as to why the housing pressure condition exists;
  - (b) they agree with the authority's opinion that the direction is an appropriate response to the authority having concluded that the housing pressure condition exists;
  - (c) they are satisfied that the authority's proposals included in its application in accordance with section 3(2)(d) are likely to contribute to a reduction in the imbalance between the demand for social housing and its supply within the authority's area, and
  - (d) they are satisfied that, before making the application, the authority complied with its obligation to carry out a consultation exercise under section 2.
- (5) If any of paragraphs (a) to (d) of subsection (4) are not met, the Welsh Ministers must reject the application.
- (6) The Welsh Ministers must grant or reject an application in accordance with this section within six months beginning with the date on which they decided to consider the application (see section 4(4)).
- (7) The validity of the Welsh Ministers' decision is not affected by a failure to comply with subsection (6).

**Commencement Information**

**I5** S. 5 in force at 3.9.2012 by S.I. 2012/2091, arts. 1(2), 2

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## **6 Issue of direction**

- (1) Where the Welsh Ministers grant a local housing authority's application under section 5, they must issue in writing a direction which—
  - (a) clearly identifies the area to which it applies (whether that is the whole of the authority's area or one or more parts of its area);
  - (b) states whether or not the direction applies to every relevant dwelling-house within that area;
  - (c) if the direction does not apply to every relevant dwelling-house within that area, clearly describes the type or types of relevant dwelling-house to which it does apply;
  - (d) states the period for which it is to have effect (which must be no longer than five years from the date on which it is issued).
- (2) The Welsh Ministers must not issue a direction under this section which differs in any material respect from the draft of the direction included in the local housing authority's application in accordance with section 3(2)(a).

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### **Commencement Information**

**16** S. 6 in force at 3.9.2012 by S.I. 2012/2091, arts. 1(2), 2

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Housing (Wales) Measure 2011, CHAPTER 1.