



# Housing (Wales) Measure 2011

2011 nawm 5

## PART 2

### REGISTERED SOCIAL LANDLORDS

#### CHAPTER 4

#### ENFORCEMENT

##### *Management and constitution of registered social landlords*

#### 72 Management tender

After paragraph 15A of Schedule 1 to the Housing Act 1996 insert—

*“Management etc*

##### *Management tender*

- 15B (1) This paragraph applies if the Welsh Ministers are satisfied that—
- (a) a registered social landlord has failed to meet a standard under section 33A, or
  - (b) there has been misconduct or mismanagement in the affairs of the registered social landlord.
- (2) But this paragraph does not apply where the misconduct or mismanagement relates only to the registered social landlord’s provision of housing in England.
- (3) The Welsh Ministers may require the registered social landlord to implement a process specified by them for the purpose of—

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- (a) inviting persons to apply to undertake management functions of the registered social landlord, and
  - (b) selecting from the applications and making an appointment.
- (4) A requirement may relate to—
- (a) the registered social landlord’s affairs generally, or
  - (b) specified affairs.
- (5) A requirement must include—
- (a) provision about the constitution of a selection panel (which must include provision for ensuring representation of tenants’ interests),
  - (b) provision for ensuring best procurement practice (and consistent with any applicable procurement law), and
  - (c) provision about the terms and conditions on which the manager is to be appointed (including provision about—
    - (i) setting, monitoring and enforcing performance standards, and
    - (ii) resources).”

### 73 **Management tender: supplemental**

After paragraph 15B of Schedule 1 to the Housing Act 1996 insert—

*“Management tender: supplemental*

- 15C (1) Before acting under paragraph 15B(3) the Welsh Ministers must give the registered social landlord a notice—
- (a) specifying grounds on which action might be taken under that paragraph,
  - (b) warning the landlord that the Welsh Ministers are considering action under that paragraph, and
  - (c) explaining the effect of this paragraph.
- (2) The notice must specify a period during which the registered social landlord may make representations to the Welsh Ministers.
- (3) The period must—
- (a) be a period of at least 28 days, and
  - (b) begin with the date on which the registered social landlord receives the notice.
- (4) The Welsh Ministers must send a copy of a notice under sub-paragraph (1) to any person they think appropriate (having regard, in particular, to any person who provided information as a result of which the notice is given).
- (5) A notice under sub-paragraph (1) must—
- (a) refer to section 6A, and
  - (b) indicate whether or to what extent the Welsh Ministers would accept a voluntary undertaking instead of, or in mitigation of, action under paragraph 15B(3).

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- (6) Notice under sub-paragraph (1) may be combined with notice under one or more of the following—
  - (a) sections 50K and 50S,
  - (b) paragraphs 15E and 15G.
- (7) In imposing a requirement the Welsh Ministers must have regard to views of—
  - (a) relevant tenants,
  - (b) the registered social landlord, and
  - (c) if they think it appropriate, any relevant local housing authority.
- (8) A registered social landlord may appeal to the High Court against a requirement under paragraph 15B(3).”

#### **74 Management transfer**

After paragraph 15C of Schedule 1 to the Housing Act 1996 insert—

##### *“Management transfer*

- 15D (1) This paragraph applies if, as a result of an inquiry under paragraph 20 or an audit under paragraph 22, the Welsh Ministers are satisfied that—
- (a) there has been misconduct or mismanagement in the affairs of the registered social landlord, or
  - (b) a transfer of certain of a registered social landlord’s management functions would be likely to improve the management of some or all of its affairs.
- (2) But this paragraph does not apply where—
- (a) the misconduct or mismanagement relates only to the registered social landlord’s provision of housing in England, or
  - (b) the transfer would be likely to improve the registered social landlord’s management of its affairs only in relation to the provision of housing in England.
- (3) The Welsh Ministers may require the registered social landlord to transfer management functions to a specified person.
- (4) A requirement may relate to—
- (a) the registered social landlord’s affairs generally, or
  - (b) specified affairs.
- (5) Transfer is to be on terms and conditions (including as to remuneration) specified in, or determined in accordance with, the requirement.
- (6) A transferee manager is to have—
- (a) any power specified in the requirement, and
  - (b) any other power in relation to the registered social landlord’s affairs required by the manager for the purposes specified in the requirement (including the power to enter into agreements and take other action on behalf of the registered social landlord).”

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## 75 **Management transfer: supplemental**

After paragraph 15D of Schedule 1 to the Housing Act 1996 insert—

*“Management transfer: supplemental*

- 15E (1) Before acting under paragraph 15D(3) the Welsh Ministers must give the registered social landlord a notice—
- (a) specifying grounds on which action might be taken under that paragraph,
  - (b) warning the landlord that the Welsh Ministers are considering action under that paragraph, and
  - (c) explaining the effect of this paragraph.
- (2) The notice must specify a period during which the registered social landlord may make representations to the Welsh Ministers.
- (3) The period must—
- (a) be a period of at least 28 days, and
  - (b) begin with the date on which the registered social landlord receives the notice.
- (4) The Welsh Ministers must send a copy of a notice under sub-paragraph (1) to any person they think appropriate (having regard, in particular, to any person who provided information as a result of which the notice is given).
- (5) A notice under sub-paragraph (1) must—
- (a) refer to section 6A, and
  - (b) indicate whether or to what extent the social landlord would accept a voluntary undertaking instead of, or in mitigation of, action under paragraph 15D(3).
- (6) Notice under sub-paragraph (1) may be combined with notice under one or more of the following—
- (a) sections 50K and 50S,
  - (b) paragraphs 15C and 15G.
- (7) In imposing a requirement the Welsh Ministers must have regard to views of—
- (a) relevant tenants,
  - (b) the registered social landlord, and
  - (c) if they think it appropriate, any relevant local housing authority.
- (8) A registered social landlord may appeal to the High Court against a requirement under paragraph 15D(3).”

## 76 **Appointment of manager of registered social landlord**

After paragraph 15E of Schedule 1 to the Housing Act 1996 insert—

*“Appointment of manager of registered social landlord*

- 15F (1) This paragraph applies if the Welsh Ministers are satisfied that—

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- (a) a registered social landlord has failed to meet a standard under section 33A, or
  - (b) there has been misconduct or mismanagement in the affairs of the registered social landlord.
- (2) But this paragraph does not apply where the misconduct or mismanagement relates only to the registered social landlord's provision of housing in England.
- (3) The Welsh Ministers may—
- (a) appoint an individual as a manager of the registered social landlord, or
  - (b) require the registered social landlord to appoint an individual as a manager.
- (4) An appointment or requirement may relate to the management of—
- (a) the registered social landlord's affairs generally, or
  - (b) specified affairs.
- (5) Appointment is to be on terms and conditions (including as to remuneration) specified in, or determined in accordance with, the appointment or requirement.
- (6) A manager is to have—
- (a) any power specified in the appointment or requirement, and
  - (b) any other power in relation to the registered social landlord's affairs required by the manager for the purposes specified in the appointment or requirement (including the power to enter into agreements and take other action on behalf of the registered social landlord)."

## 77 **Appointment of manager: supplemental**

After paragraph 15F of Schedule 1 to the Housing Act 1996 insert—

### *“Appointment of manager: supplemental*

- 15G (1) Before acting under paragraph 15F(3) the Welsh Ministers must give the registered social landlord a notice—
- (a) specifying grounds on which action might be taken under that paragraph,
  - (b) warning the landlord that the Welsh Ministers are considering action under that paragraph, and
  - (c) explaining the effect of this paragraph.
- (2) The notice must specify a period during which the registered social landlord may make representations to the Welsh Ministers.
- (3) The period must—
- (a) be a period of at least 28 days, and
  - (b) begin with the date on which the registered social landlord receives the notice.

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- (4) The Welsh Ministers must send a copy of a notice under sub-paragraph (1) to any person they think appropriate (having regard, in particular, to any person who provided information as a result of which the notice is given).
- (5) A notice under sub-paragraph (1) must—
  - (a) refer to section 6A, and
  - (b) indicate whether or to what extent the Welsh Ministers would accept a voluntary undertaking instead of, or in mitigation of, action under paragraph 15F(3).
- (6) Notice under sub-paragraph (1) may be combined with notice under one or more of the following—
  - (a) sections 50K and 50S,
  - (b) paragraphs 15C and 15E.
- (7) The Welsh Ministers may require a manager to report to them on the affairs specified in the appointment or requirement under paragraph 15F(3).
- (8) A registered social landlord may appeal to the High Court against an appointment or requirement under paragraph 15F(3).”

## 78 Amalgamation

After paragraph 15G of Schedule 1 to the Housing Act 1996 insert—

### *“Amalgamation*

- 15H (1) This paragraph applies if as a result of an inquiry under paragraph 20 or an audit under paragraph 22, the Welsh Ministers are satisfied that—
- (a) there has been misconduct or mismanagement in the affairs of a registered social landlord which is an industrial and provident society, or
  - (b) the management of the affairs of a registered social landlord which is an industrial and provident society would be improved if the landlord were amalgamated with another industrial and provident society.
- (2) But this paragraph does not apply where—
- (a) the misconduct or mismanagement relates only to the registered social landlord’s provision of housing in England, or
  - (b) the amalgamation would improve the management of the registered social landlord’s affairs only in relation to the provision of housing in England.
- (3) The Welsh Ministers may make and execute on behalf of the society an instrument providing for the amalgamation of the society with another industrial and provident society.
- (4) An instrument providing for the amalgamation of a society (“S1”) with another has the same effect as a special resolution by S1 under section 50 of the Industrial and Provident Societies Act 1965 (amalgamation of societies by special resolution).

- (5) A copy of an instrument must be sent to and registered by the Financial Services Authority.
- (6) An instrument does not take effect until the copy is registered.
- (7) The copy must be sent for registration during the period of 14 days beginning with the date of execution, but a copy registered after that period is valid.
- (8) Any body created by virtue of an amalgamation must be registered as a social landlord by the Welsh Ministers, and pending registration is to be treated as registered.”

#### **79 Restrictions on dealings during an inquiry**

In paragraph 23 of Schedule 1 to the Housing Act 1996 (powers exercisable on interim basis), after sub-paragraph (2) insert—

“(2A) Before making an order under sub-paragraph (2)(b) or (c) the Welsh Ministers must take all reasonable steps to give notice to the registered social landlord and, in the case of an order under sub-paragraph (2)(b), to the person to whom the order is directed.”

#### **80 Restrictions on dealings following an inquiry or extraordinary audit**

(1) Amend paragraph 24 of Schedule 1 to the Housing Act 1996 (powers exercisable as a result of final report or audit) as follows.

(2) After sub-paragraph (3) insert—

“(3A) Before making an order under sub-paragraph (2)(c) or (d) the Welsh Ministers must take all reasonable steps to give notice to the registered social landlord and, in the case of an order under sub-paragraph (2)(c), to the person to whom the order is directed.”

(3) After sub-paragraph (6) add—

“(7) An order under sub-paragraph (2)(c) or (d) has effect until revoked by the Welsh Ministers.”

#### **81 Disqualification of removed person**

(1) In paragraph 25 of Schedule 1 to the Housing Act 1996 (disqualification as officer of registered social landlord), after sub-paragraph (4) insert—

“(4A) The register must show details of any waivers.”

#### **82 Acting while disqualified**

(1) Amend paragraph 26 of Schedule 1 to the Housing Act 1996 (persons acting as officer while disqualified) as follows.

(2) In sub-paragraph (1)(a) for “six months” substitute “12 months”.

(3) After sub-paragraph (1) insert—

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“(1A) In relation to an offence committed before the commencement of section 282 of the Criminal Justice Act 2003 (short sentences) the reference in sub-paragraph (1)(a) to 12 months has effect as if it were a reference to 6 months.”

(4) After sub-paragraph (4) add—

“(5) If a person fails to comply with an order directing repayment, the registered social landlord or the Welsh Ministers (as the case may be) may recover the sum or specified amount as a debt.”