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Housing and Regeneration Act 2008

2008 CHAPTER 17

An Act to establish the Homes and Communities Agency and make provision about it; to abolish the Urban Regeneration Agency and the Commission for the New Towns and make provision in connection with their abolition; to regulate social housing; to enable the abolition of the Housing Corporation; to make provision about sustainability certificates, landlord and tenant matters, building regulations and mobile homes; to make further provision about housing; and for connected purposes. [22nd July 2008]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

THE HOMES AND COMMUNITIES AGENCY

CHAPTER 1

GENERAL

1 Establishment and constitution

(1) There shall be a body corporate known as the Homes and Communities Agency ("the HCA").

(2) Schedule 1 (which makes further provision about the HCA) has effect.

Commencement Information
I1 S. 1 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

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2 Objects

(1) The objects of the HCA are—

(a) to improve the supply and quality of housing in England,

(b) to secure the regeneration or development of land or infrastructure in England,

(c) to support in other ways the creation, regeneration or development of communities in England or their continued well-being, and

(d) to contribute to the achievement of sustainable development and good design in England,

with a view to meeting the needs of people living in England.

(2) In subsection (1)—

"good design" includes design which has due regard to the needs of elderly persons and disabled persons,

"needs" includes future needs,

and the reference to improving the supply of housing includes a reference to improving the supply of particular kinds of housing.

(3) In this Part—

"building" means a building or other structure (including a house-boat or caravan),

"caravan" has the meaning given by section 29(1) of the Caravan Sites and Control of Development Act 1960 (c. 2),

"housing" means a building, or part of a building, occupied or intended to be occupied as a dwelling or as more than one dwelling; and includes a hostel which provides temporary residential accommodation,

"infrastructure" includes—

(a) water, electricity, gas, telecommunications, sewerage or other services,

(b) roads or other transport facilities,

(c) retail or other business facilities,

(d) health, educational, employment or training facilities,

(e) social, religious or recreational facilities,

(f) cremation or burial facilities, and

(g) community facilities not falling within paragraphs (a) to (f),

"land" includes housing or other buildings (and see also the definition in Schedule 1 to the Interpretation Act 1978 (c. 30)),

and references to housing include (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, the building or part of building concerned.

(4) See also sections 19(5) (financial assistance), 44 (local government involvement) and 52 (role of the HCA in relation to certain former functions of the Commission for the New Towns).

Commencement Information

I2 S. 2 in force at 8.9.2008 by S.I. 2008/2358 , **art. 2(1)**

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3 Principal powers

The HCA may do anything it considers appropriate for the purposes of its objects or for purposes incidental to those purposes.

Commencement Information

I3 S. 3 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

4 Powers: general

(1) This Part contains various specific powers of the HCA.

(2) The specific powers of the HCA (whether contained in this Part or elsewhere) are to be exercised for the purposes of its objects or for purposes incidental to those purposes.

(3) Each power may be exercised separately or together with, or as part of, another power.

(4) Each power does not limit the scope of another power.

(5) Each power does not limit the scope of the powers conferred by section 3.

(6) But—

(a) subsections (2) and (3) do not apply to the HCA in its capacity as a local planning authority by virtue of sections 13 and 14 or in its exercise of other functions by virtue of those sections, and

(b) the powers conferred by section 3 must not be used to override a restriction imposed on the exercise of a specific power.

Commencement Information

I4 S. 4 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 2(1)**

I5 S. 4 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 2(1)(a)** (with arts. 6-13)

CHAPTER 2

LAND AND INFRASTRUCTURE

General

5 Powers to provide housing or other land

(1) The HCA may provide housing or other land.

(2) The HCA may facilitate the provision of housing or other land.

(3) In this section "provide" includes provide by way of acquisition, construction, conversion, improvement or repair (and "provision" is to be read in the same way).

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Commencement Information

I6 S. 5 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

6 Powers for regeneration, development or effective use of land

(1) The HCA may regenerate or develop land.

(2) The HCA may bring about the more effective use of land.

(3) The HCA may facilitate—

(a) the regeneration or development of land, or

(b) the more effective use of land.

Commencement Information

I7 S. 6 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

7 Powers in relation to infrastructure

(1) The HCA may provide infrastructure.

(2) The HCA may facilitate the provision of infrastructure.

(3) In this section "provide" includes provide by way of acquisition, construction, conversion, improvement or repair (and "provision" is to be read in the same way).

Commencement Information

I8 S. 7 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

Powers to deal with land etc.

8 Powers to deal with land etc.

The HCA may carry out, or facilitate the carrying out of, any of the following activities in relation to land—

(a) acquiring, holding, improving, managing, reclaiming, repairing or disposing of housing,

(b) acquiring, holding, improving, managing, reclaiming, repairing or disposing of other land, plant, machinery, equipment or other property, and

(c) carrying out building and other operations (including converting or demolishing buildings).

Commencement Information

I9 S. 8 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(c)** (with arts. 6-13)

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9 Acquisition of land

(1) The HCA may acquire land by agreement.

(2) The HCA may acquire land compulsorily if the Secretary of State authorises it to do so.

(3) The power of acquiring land compulsorily under subsection (2) includes power to acquire new rights over land.

(4) Subsection (5) applies where—

(a) land or new rights over land are being acquired compulsorily under subsection (2), and

(b) the land which is being acquired, or over which new rights are being acquired, forms part of a common, open space or allotment.

(5) The power under subsection (2) to acquire land compulsorily includes the power to acquire land compulsorily for giving in exchange for the land or (as the case may be) new rights mentioned in subsection (4)(a).

(6) Schedule 2 (which makes further provision in relation to the acquisition of land by the HCA) has effect.

(7) In this Part—

"allotment" means a fuel or field garden allotment,

"common" has the meaning given by section 19(4) of the Acquisition of Land Act 1981 (c. 67),

"open space" means any land which is—

(a) laid out as a public garden,

(b) used for the purposes of public recreation, or

(c) a disused burial ground.

Commencement Information

I10 S. 9 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

10 Restrictions on disposal of land

(1) The HCA may not dispose of land for less than the best consideration which can reasonably be obtained unless the Secretary of State consents.

(2) Subsection (1) does not apply to a disposal by way of a short tenancy if the disposal consists of—

(a) the grant of a term of not more than 7 years, or

(b) the assignment of a term which, at the date of assignment, has not more than 7 years to run.

(3) The HCA may not dispose of land which has been compulsorily acquired by it under this Part unless the Secretary of State consents.

(4) Subject as above, the HCA may dispose of land held by it in any way it considers appropriate.

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Commencement Information
I11 S. 10 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(e)** (with arts. 6-13)

Powers in relation to acquired land

11 Main powers in relation to acquired land

Schedule 3 (which makes provision about powers in relation to land of the HCA) has effect.

Commencement Information
I12 S. 11 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

12 Powers in relation to, and for, statutory undertakers

Schedule 4 (which provides for powers in relation to, and for, statutory undertakers) has effect.

Commencement Information
I13 S. 12 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Planning

13 Power of Secretary of State to make designation orders

(1) The Secretary of State may by order designate an area in England if the Secretary of State considers that—
  (a) the area is suitable for development, and
  (b) it is appropriate for the HCA to be the local planning authority for the whole or any part of the area—
    (i) for particular permitted purposes, and
    (ii) in relation to particular kinds of development.

(2) In deciding whether it is appropriate for the HCA to be the local planning authority as mentioned in subsection (1)(b), the Secretary of State must, in particular, be satisfied that making the designation order is likely to improve the effectiveness with which the functions of the local planning authority for the area or part are discharged.

(3) The Secretary of State must, before making a designation order—
  (a) publish—
    (i) a draft of the order, and
    (ii) the Secretary of State's reasons for making the order, and
  (b) consult the persons mentioned in subsection (4).

(4) The persons are—

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(a) every local authority any part of whose area is intended to be included in the proposed designated area,

(b) any person, other than a local authority, who is the local planning authority for the proposed designated area or any part of it,

(c) such persons which appear to the Secretary of State to represent the interests of local authorities as the Secretary of State considers appropriate, and

(d) persons who reside or carry on business in the proposed designated area.

(5) In this Part—

"designated area" means an area designated by a designation order,

"designation order" means an order under this section,

"local planning authority", in relation to a designation order or proposed designation order, means—

(a) so far as the order relates to permitted purposes under Part 2 of the Planning and Compulsory Purchase Act 2004 (c. 5), the local planning authority within the meaning of that Part of that Act, and

(b) in any other case, the local planning authority within the meaning of Part 1 of the Town and Country Planning Act 1990 (c. 8),

"permitted purposes" means any purposes of—

(a) the Town and Country Planning Act 1990 (other than section 137A, Parts 9 and 13, and sections 325A, 329A and 330A, of that Act),

(b) the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) (other than section 32A, Chapter 5 of Part 1, and sections 82A to 82F and 88C, of that Act), and

(c) Part 2 of the Planning and Compulsory Purchase Act 2004,

and references to a designated area, in the case of an area whose boundaries have been amended by an order made under this section by virtue of section 14 of the Interpretation Act 1978 (c. 30), are to be read as references to the designated area as so amended.

(6) In this section "local authority" means a county council in England, a district council, a London borough council or the Common Council of the City of London.

Commencement Information

I14 S. 13 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(h)** (with arts. 6-13)

14 Contents of designation orders

(1) A designation order may contain provisions of the following kind.

(2) The order may provide for the HCA to be the local planning authority for the whole or any part of the designated area—

(a) for specified permitted purposes, and

(b) in relation to specified kinds of development.

(3) The order may provide that where the HCA is the local planning authority for the whole or any part of the designated area it is to have—

(a) in relation to the whole or any part of the designated area, and

(b) subject to any specified modifications,

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specified relevant functions conferred by or under specified planning-related provisions.

(4) An order which makes provision of the kind mentioned in subsection (2) may make provision about the application of enactments relating to local planning authorities to the HCA in its capacity as the local planning authority by virtue of the order.

(5) An order which makes provision of the kind mentioned in subsection (3)—

(a) may provide for the HCA to have the functions concerned instead of, or concurrently with, other persons who have them,

(b) may make provision about the application to the HCA of enactments relating to the functions concerned.

(6) Provision made by virtue of subsection (4) or (5), or section 320(1)(d) in its application to an order of a kind falling within this section, may, in particular, provide that any enactment—

(a) is to apply to the HCA without modification,

(b) is to apply to it subject to specified modifications.

(7) In this section—

"planning-related provisions" means—

(a) Chapter 1 of Part 6 (other than section 137A), and sections 188 and 330, of the Town and Country Planning Act 1990 (c. 8),

(b) sections 32 and 33 to 37, 54 and 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9), and

(c) the Planning (Hazardous Substances) Act 1990 (c. 10) (other than sections 30A to 31A and 36C of that Act),

"relevant functions" means functions of—

(a) a district council, a London borough council, the Common Council of the City of London, or any other body which is a local authority within the meaning of the Town and Country Planning Act 1990,

(b) a district planning authority (within the meaning of that Act), or

(c) a hazardous substances authority (within the meaning of the Planning (Hazardous Substances) Act 1990),

"specified", in relation to a designation order, means specified or described in the order.

Commencement Information

I15 S. 14 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(h)** (with arts. 6-13)

15 HCA as local planning authority: local involvement

(1) Subsections (2) to (6) apply where a designation order provides for the HCA to be the local planning authority for the whole or any part of the designated area.

(2) The HCA must prepare and publish a statement of local involvement.

(3) The statement of local involvement is a statement of the HCA's policy as to the extent to which it intends to involve persons mentioned in subsection (4) in relation to the exercise by the HCA of functions conferred on it by virtue of the designation order.

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(4) The persons are—

(a) every local authority for the designated area or any part of the area in relation to which a function is to be exercised, and

(b) persons appearing to the HCA to have special knowledge or experience of matters relevant to functions to be exercised in relation to the area or part.

(5) The HCA must—

(a) keep the statement under review, and

(b) publish any revision of it.

(6) In deciding its policy about the extent of involvement of persons mentioned in subsection (4), the HCA must, in particular, have regard to—

(a) the benefits that it might receive from their knowledge and experience, and

(b) the nature of the functions concerned.

(7) Subsection (8) applies where—

(a) the HCA establishes a committee for the purpose of exercising functions conferred on the HCA by virtue of a designation order,

(b) such a committee establishes a sub-committee for such a purpose, or

(c) a new or replacement member is to be appointed to such a committee or sub-committee.

(8) The HCA must—

(a) inform every local authority for the designated area or any part of the area in relation to which the functions are to be, or are being, exercised of—

(i) the establishment of the committee or sub-committee concerned, or

(ii) (as the case may be) the proposed appointment, and

(b) invite the authority to suggest one or more candidates for membership of the committee or (as the case may be) sub-committee.

(9) In this section "local authority" has the same meaning as in section 13.

Commencement Information

I16 S. 15 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(h)** (with arts. 6-13)

16 Regional planning

(1) Section 4 of the Planning and Compulsory Purchase Act 2004 (c. 5) (assistance for regional planning bodies from certain local authorities) is amended as follows.

(2) For subsection (4) substitute—

"(4) These are the authorities which fall within this subsection—

(a) each of the following if their area or any part of their area is in the RPB's region—

(i) a county council;

(ii) a metropolitan district council;

(iii) a district council for an area for which there is no county council;

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(iv) a National Park authority; and

(b) the Homes and Communities Agency if it is the local planning authority for an area or part of an area in the RPB's region.

(4A) For the purposes of subsection (4), the Homes and Communities Agency is the local planning authority for an area or part of an area in the RPB's region if it is the local planning authority for that area or part, or for an area which includes that area or part, by virtue of an order of the kind mentioned in section 14(2) of the Housing and Regeneration Act 2008 (designation orders).

(4B) In subsections (4) and (4A) "local planning authority" has the same meaning as in Part 1 of the Housing and Regeneration Act 2008 (see section 13(5) of that Act)."

(3) In subsection (8) after "(5)" insert " other than arrangements with the Homes and Communities Agency ".

Commencement Information

I17 S. 16 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(h)** (with arts. 6-13)

Other powers etc. in relation to land

17 Power to enter and survey land

(1) Any person authorised by the HCA may, at any reasonable time and subject as follows, enter any land for the purpose of surveying it, or estimating its value, in connection with—

(a) any proposal for the HCA to acquire that land or any other land, or

(b) any claim for compensation in respect of any such acquisition.

(2) A person authorised under subsection (1) to enter any land—

(a) must, if required, produce evidence of the authority before entering the land, and

(b) must not demand admission as of right to the land unless the HCA has served notice of the intended entry on every owner or occupier of the land not less than 28 days before the making of the demand.

(3) A notice under subsection (2)(b) must—

(a) state the purpose for which entry is required, and

(b) inform the person to whom it is given of the person's rights under this section and, if applicable, section 18.

(4) A person interested in any land may recover compensation from the HCA in respect of any damage done to the land—

(a) in the exercise of a right of entry under this section, or

(b) in making a survey under this section.

(5) Section 118 of the Town and Country Planning Act 1990 (c. 8) (determination of claims for compensation) applies in relation to compensation under subsection (4) as it applies in relation to compensation under Part 4 of that Act.

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(6) A person ("A") commits an offence if A intentionally obstructs another person ("B") in the exercise of B's powers under subsection (1) above.

(7) A person who commits an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(8) In subsection (2)(b) "owner" has the same meaning as in the Acquisition of Land Act 1981 (c. 67).

(9) The references in subsections (4) and (6) to this section or subsection (1) include references to those provisions as extended by section 18.

Commencement Information

I18 S. 17 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(i)** (with arts. 6-13)

18 Section 17: supplementary

(1) The power to survey land conferred by section 17(1) includes power to search and bore for the purpose of ascertaining—

(a) the nature of the subsoil, or

(b) the presence of minerals in it.

(2) But this is subject to subsections (3) to (5).

(3) No person may carry out any works authorised by virtue of subsection (1) unless notice of the person's intention to do so was included in the notice required by section 17(2)(b).

(4) The authority of the appropriate Minister is required for the carrying out of any works authorised by virtue of subsection (1) if—

(a) the land concerned is held by statutory undertakers, and

(b) they object to the proposed works on the ground that the execution of the works would be seriously detrimental to carrying on their undertaking.

(5) The references in subsection (4) to the appropriate Minister, statutory undertakers and their undertaking have the same meanings as they have in section 325(9) of the Town and Country Planning Act 1990 (c. 8) (supplementary provisions as to rights of entry).

Commencement Information

I19 S. 18 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(i)** (with arts. 6-13)

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CHAPTER 3

FINANCIAL PROVISION

Powers to give financial assistance

19 Financial assistance

(1) The HCA may, with the consent of the Secretary of State, give financial assistance to any person.

(2) Financial assistance under this section may be given in any form.

(3) Financial assistance under this section may, in particular, be given by way of—
- (a) grants,
- (b) loans,
- (c) guarantee or indemnity,
- (d) investment, or
- (e) incurring expenditure for the benefit of the person assisted.

(4) Financial assistance under this section may be given on such terms and conditions as the HCA considers appropriate (including provision for repayment, with or without interest).

(5) The objects of the HCA are not to be read as preventing the HCA from exercising functions in relation to financial assistance (whether under this section or otherwise) which—
- (a) are transferred to the HCA from the Housing Corporation by virtue of this Act, or
- (b) would supersede functions of the Housing Corporation,

in ways corresponding to those in which the Housing Corporation could have exercised its functions.

(6) See also sections 31 to 35 (further provision about certain types of financial assistance: social housing).

Commencement Information

I20 S. 19(1)-(4) in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 2(1)(j)** (with arts. 6-13)

I21 S. 19(5) in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(j)** (with arts. 6-13)

Borrowing powers of the HCA

20 Powers to borrow

(1) The HCA may, for the purpose of what it considers to be the short-term management of its finances, borrow from any person by way of overdraft or otherwise.

(2) Subject to this, the HCA may only borrow from the Secretary of State or the European Investment Bank.

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(3) The HCA may not borrow in currencies other than sterling.

Commencement Information
I22 S. 20 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(k)** (with arts. 6-13)

21 Loans by the Secretary of State

(1) The Secretary of State may lend to the HCA any sums it has power to borrow from the Secretary of State under section 20.

(2) Loans under subsection (1) may be made on such terms and conditions as the Secretary of State considers appropriate (including provision for repayment with or without interest).

Commencement Information
I23 S. 21 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(k)** (with arts. 6-13)

22 Guarantees by the Secretary of State

(1) The Secretary of State may guarantee—
  (a) the repayment of the principal of any sums which the HCA borrows from a person other than the Secretary of State, and
  (b) the payment of interest on such sums.

(2) Such a guarantee is to be in such manner, and on such terms and conditions, as the Secretary of State considers appropriate.

(3) The Secretary of State must lay a statement of any such guarantee before Parliament immediately after giving the guarantee.

(4) The Secretary of State must lay before Parliament a statement relating to any sum issued for fulfilling such a guarantee.

(5) A statement under subsection (4) must be laid as soon as possible after the end of each financial year—
  (a) beginning with that in which the sum is issued, and
  (b) ending with that in which all liability in respect of the principal of the sum guaranteed, and of interest on it, is finally discharged.

(6) In respect of any sums issued in fulfilment of a guarantee given under this section, the HCA must make payments to the Secretary of State—
  (a) of such amounts as the Secretary of State may direct in or towards repayment of those sums, and
  (b) of interest on what is outstanding in respect of those sums, at such rates as the Secretary of State may direct.

(7) Payments under subsection (6) must be made at such times, and in such manner, as the Secretary of State may direct.

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Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I24 S. 22 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(k)** (with arts. 6-13)

23 Financial limits

(1) The current borrowings of the HCA must not exceed £2,300 million.

(2) The Secretary of State may by order amend subsection (1) so as to specify a greater amount than that for the time being specified there.

(3) But an order under subsection (2) may not specify an amount of more than £3,000 million.

(4) In this section "current borrowings of the HCA" means—
- (a) the aggregate amount at any time of—
  - (i) sums borrowed by the HCA under section 20, and
  - (ii) sums borrowed by subsidiaries of the HCA (other than from the HCA), less
- (b) repayments made, or treated as made, in respect of those sums.

(5) In this Part "subsidiary" has the meaning given by section 1159 of the Companies Act 2006 (c. 46).

Commencement Information
I25 S. 23 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(k)** (with arts. 6-13)

Other

24 Power to charge for certain activities

(1) The HCA may impose charges for, or in connection with, anything done by it by virtue of section 38, 39 or 45.

(2) Any such charges must be of such amounts as the HCA considers to be reasonable.

Commencement Information
I26 S. 24 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(l)** (with arts. 6-13)

25 Directions as to surplus funds

(1) Subsection (2) applies if the Secretary of State considers that the HCA or any subsidiary of the HCA has a surplus, whether on capital or on revenue account, after making allowance by way of transfer to reserve or otherwise for its future requirements.

(2) The Secretary of State may give a direction to the HCA to pay to the Secretary of State such sum not exceeding the amount of the surplus as may be specified in the direction.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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(3) The Secretary of State must consult the HCA before coming to a decision of the kind mentioned in subsection (1) or giving a direction as mentioned in subsection (2).

(4) The Secretary of State may decide to treat the whole or part of any payment under subsection (2) as made—

(a) by way of repayment of such part of the principal of loans under section 21(1), and

(b) in respect of the repayments due at such times,

as the Secretary of State may decide.

Commencement Information

I27 S. 25 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(m)** (with arts. 6-13)

26 Duty to act as agent in respect of regeneration and development

(1) The Secretary of State may appoint the HCA to act as the agent of the Secretary of State in connection with such financial assistance functions as the Secretary of State may specify.

(2) In subsection (1) "financial assistance functions" means, so far as exercisable in relation to England, functions under sections 126 to 128 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53) (financial assistance for regeneration and development).

(3) An appointment under this section is to be on such terms as the Secretary of State may specify.

(4) The HCA must, if appointed, act as agent in accordance with the terms of its appointment.

Commencement Information

I28 S. 26 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(n)** (with arts. 6-13)

27 Duty to act as agent in respect of derelict land etc.

(1) The Secretary of State may appoint the HCA to act as the agent of the Secretary of State in connection with such derelict land functions as the Secretary of State may specify.

(2) In subsection (1) "derelict land functions" means functions under—

(a) section 1 of the Derelict Land Act 1982 (c. 42) (grants for reclaiming or improving land or bringing land into use), or

(b) any enactment superseded by that section,

but excluding the powers to make orders under section 1(5) and (7) of that Act.

(3) An appointment under this section is to be on such terms as the Secretary of State may specify.

(4) The HCA must, if appointed, act as agent in accordance with the terms of its appointment.

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Commencement Information
I29 S. 27 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(n)** (with arts. 6-13)

CHAPTER 4

OTHER FUNCTIONS OF THE HCA

General

28 Business

(1) The HCA may carry on any business.

(2) In subsection (1) "business" includes undertaking.

Commencement Information
I30 S. 28 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(o)** (with arts. 6-13)

29 Powers to form companies etc.

The HCA may, with the consent of the Secretary of State, form, or acquire interests in, bodies corporate.

Commencement Information
I31 S. 29 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(o)** (with arts. 6-13)

30 Community services

The HCA may provide such services for communities as it considers appropriate or facilitate the provision of such services.

Commencement Information
I32 S. 30 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(o)** (with arts. 6-13)

Social housing

VALID FROM 01/04/2010

31 Duties in relation to social housing

(1) Subsection (2) applies if the HCA acquires, constructs or converts any housing or other land for use as low cost rental accommodation.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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(2) The HCA must ensure that a **[**[F1]registered provider of social housing**]** is the landlord of the accommodation when it is made available for rent.

(3) Subsection (4) applies if the HCA disposes of any housing or other land to a person on condition that the person provides low cost rental accommodation (whether in the same or different housing or other land).

(4) The HCA must impose a further condition that a **[**[F2]registered provider of social housing**]** is the landlord of the accommodation when it is made available for rent.

(5) Subsection (6) applies if the HCA provides infrastructure to a person on condition that the person provides low cost rental accommodation.

(6) The HCA must impose a further condition ensuring that a **[**[F3]registered provider of social housing**]** is the landlord of the accommodation when it is made available for rent.

(7) Subsection (8) applies if the HCA is proposing to give financial assistance on condition that the recipient provides low cost rental accommodation.

(8) The HCA must impose a further condition ensuring that a **[**[F4]registered provider of social housing**]** is the landlord of the accommodation when it is made available for rent.

(9) Subsection (10) applies if the HCA is proposing to give financial assistance on condition that the recipient provides low cost home ownership accommodation.

(10) The HCA must consult the Regulator of Social Housing about the proposals.

(11) For the purposes of this section, a person provides low cost rental accommodation or low cost home ownership accommodation if (and only if) the person acquires, constructs or converts any housing or other land for use as low cost rental accommodation or (as the case may be) low cost home ownership accommodation or ensures such acquisition, construction or conversion by another.

(12) In this section—

[F5]…

"low cost home ownership accommodation" has the meaning given by section 70,

[F5]…

"low cost rental accommodation" has the meaning given by section 69,

Textual Amendments

F1 Words in s. 31(2) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 2 para. 26(2)(a)**

F2 Words in s. 31(4) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 2 para. 26(2)(a)**

F3 Words in s. 31(6) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 2 para. 26(2)(a)**

F4 Words in s. 31(8) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 2 para. 26(2)(a)**

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F5 Words in s. 31(12) omitted (1.4.2010) by virtue of The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 2 para. 26(2)(b)**

Commencement Information

I33 S. 31 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

32 Recovery etc. of social housing assistance

(1) The HCA may, in such events as it may determine, exercise the powers conferred by subsections (2) to (4) in relation to a person who has received social housing assistance.

(2) The HCA may reduce any grant payable by it or restrict any other social housing assistance due from it.

(3) The HCA may suspend or cancel any instalment of any grant payable by it or any aspect of any other social housing assistance due from it.

(4) The HCA may direct the recipient of any social housing assistance given by way of grant to—

(a) apply or appropriate for such purposes of the recipient as the HCA may specify, or

(b) pay to the HCA,

such amount as the HCA may specify.

(5) The HCA may not specify an amount which exceeds the recoverable amount.

(6) The recoverable amount is—

(a) the total amount of grant received by the person to whom the direction is given, less

(b) the total of any amounts applied, appropriated or paid in accordance with any previous directions given in respect of that grant under subsection (4),

and for the purposes of paragraph (b) any amounts provided for by virtue of section 33(1) are to be ignored.

(7) Subsection (5) is without prejudice to the power of the HCA under section 33(1).

(8) In exercising its powers under subsections (2) to (4) the HCA must act in accordance with such principles as it has determined.

(9) A person who has received social housing assistance must notify the HCA if an event of a kind determined by the HCA under subsection (1) occurs after the assistance has been given.

(10) Such a person must, if required by notice of the HCA, supply the HCA with such particulars of, and information relating to, the event as are specified in the notice.

(11) The HCA must notify the Regulator of Social Housing at least 14 days before exercising, in relation to a registered provider of social housing, any of the powers conferred by subsections (2) to (4).

(12) Events determined by the HCA under subsection (1), and principles determined by the HCA under subsection (8), must be determined on or before the time the HCA gives the social housing assistance concerned unless they are determined subsequently with the agreement of the recipient of the assistance.

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(13) In this Part—

"social housing" has the same meaning as in Part 2,

"social housing assistance" means financial assistance given under section 19 on condition that the recipient provides social housing (whether by itself or as part of a wider project);

and, for the purposes of this Part, a person provides social housing if (and only if) the person acquires, constructs, converts, improves or repairs any housing or other land for use as social housing or ensures such acquisition, construction, conversion, improvement or repair by another.

Commencement Information

I34 S. 32 in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 2(1)(a)**

33 Section 32: interest and successors in title

(1) A direction by the HCA under section 32(4) may require the application, appropriation or payment, in addition to the specified amount, of one or more of the following—

(a) interest on the specified amount,

(b) an amount calculated by reference to any increase in the market value of any housing or other land acquired, constructed, converted, improved or repaired as a result of the grant, and

(c) interest on the amount falling within paragraph (b).

(2) Any direction falling within subsection (1)(a) or (c) must specify—

(a) the applicable rate or rates of interest (whether fixed or variable),

(b) the date from which interest is payable, and

(c) any provision for suspended or reduced interest which is applicable.

(3) The date specified under subsection (2)(b) must not be earlier than the date of the event giving rise to the power to give a direction.

(4) In subsection (2)(c)—

(a) provision for suspended interest means provision to the effect that if the principal amount is applied, appropriated or paid before a date specified in the direction, no interest will be payable for any period after the date of the direction, and

(b) provision for reduced interest means provision to the effect that if the principal amount is so applied, appropriated or paid, any interest payable will be payable at a rate or rates lower than the rate or rates which would otherwise be applicable.

(5) Any direction falling within subsection (1)(b) must specify—

(a) the housing or other land concerned, and

(b) the method of calculating the amount concerned.

(6) Subsection (7) applies if—

(a) social housing assistance has been given to a person, and

(b) at any time the social housing provided as a result of the assistance becomes vested in, or is leased for a term of years to, or reverts to, another person.

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(7) Section 32 and this section (including this subsection) have effect in relation to periods after that time as if the assistance, or such element of it as may be determined by the HCA to be appropriate, had been given to that other person.

(8) The matters specified in a direction under subsection (2)(a) to (c) or (5), and the element mentioned in subsection (7), are to be—

(a) such as the HCA, acting in accordance with such principles as it may determine, may specify as being appropriate, or

(b) such as the HCA may determine to be appropriate in the particular case.

(9) Principles determined by the HCA under subsection (8)(a), and determinations by the HCA under subsection (8)(b), must be determined on or before the time the HCA gives the social housing assistance concerned unless they are determined subsequently with the agreement of the recipient of the assistance.

Commencement Information

I35 S. 33 in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 2(1)(b)**

34 Determinations under sections 32 and 33

(1) The HCA must not make a general determination under section 32 or 33 without the consent of the Secretary of State.

(2) Before making such a determination, the HCA must consult—

(a) the Regulator of Social Housing, and

(b) such other persons as it considers appropriate.

(3) Subsection (4) applies if a general determination under section 32 or 33 about relevant events relates to social housing assistance given to a registered provider of social housing.

(4) The HCA must, in particular, consult such bodies appearing to it to represent the interests of registered providers of social housing as it considers appropriate.

(5) The HCA must publish a general determination made under section 32 or 33 in such manner as it considers appropriate for bringing the determination to the attention of those affected by it.

(6) A general determination of the HCA under section 32 or 33 may make different provision for different cases or descriptions of case (including different provision for different areas).

(7) For the purposes of subsection (6) descriptions may be framed by reference to any matters whatever.

(8) A determination of the HCA under section 32 or 33 may be varied or revoked by it (subject to any provision as to the time by which such a determination must be made).

(9) In this section—

"general determination" means a determination which does not relate solely to a particular case,

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"relevant event" means an event of a kind determined by the HCA under section 32(1).

Commencement Information

I36 S. 34 in force at 1.4.2009 by S.I. 2009/803, **art. 2(1)(c)** (with art. 2(2)(3))

VALID FROM 01/04/2010

35 Duty to give financial assistance in respect of certain disposals

(1) The HCA must exercise its powers under section 19 to give financial assistance by way of grant to a relevant provider of social housing in respect of any discount given by the provider—

(a) to a person exercising the right to acquire conferred by section 180, or

(b) on a disposal of a dwelling in England by the provider to a qualifying tenant otherwise than in pursuance of the right conferred by that section.

(2) In subsection (1)(b) "qualifying tenant" means a tenant who was entitled to exercise the right to acquire conferred by section 180, or by section 16 of the Housing Act 1996 (c. 52), in relation to a dwelling of the relevant provider of social housing other than the dwelling being disposed of by the provider.

(3) The amount of the grant given by virtue of subsection (1)(a) to a relevant provider of social housing for any year is to be the aggregate value of the discounts given by that provider in that year.

(4) The amount of the grant given by virtue of subsection (1)(b) to a relevant provider of social housing must not exceed the amount of the discount to which the tenant would have been entitled in respect of the other dwelling.

(5) The HCA must specify—

(a) the procedure to be followed in relation to applications for a grant by virtue of this section,

(b) in the case of a grant by virtue of subsection (1)(b), the method for calculating, and any other limitations on, the amount of the grant,

(c) the manner in which, and time or times at which, a grant by virtue of this section is to be paid,

(d) any other terms or conditions on which such a grant is given.

(6) In this section—

"dwelling" has the same meaning as in Part 2,

"registered provider of social housing" includes a person falling within section 180(3),

"registered social landlord" has the same meaning as in Part 1 of the Housing Act 1996,

"relevant provider of social housing" means—

(a) a registered provider of social housing, or

(b) a registered social landlord,

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"tenant" has the same meaning as in Part 2.

36 Information in relation to social housing

(1) The Secretary of State may by order provide for the HCA to supply such information about—

(a) which accommodation provided directly or indirectly by it is to be social housing,

(b) the type of social housing to be so provided, and

(c) the consequences of it being social housing,

as may be specified or described in the order.

(2) An order under this section may, in particular, provide for—

(a) the person or persons to whom the information is to be provided,

(b) the time at which, or period or frequency within which, the information is to be provided,

(c) the form and manner in which the information is to be provided.

Commencement Information

I37 S. 36 in force at 1.4.2009 by S.I. 2009/803, **art. 2(1)(d)**

37 Duty to co-operate with Regulator of Social Housing

(1) The HCA must co-operate with the Regulator of Social Housing.

(2) In particular, the HCA must consult the regulator on matters likely to interest the regulator.

Commencement Information

I38 S. 37 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

Information, education and guidance etc.

38 Information services

(1) The HCA may—

(a) publish ideas or information, or

(b) disseminate or promote ideas or information in other ways.

(2) The HCA may undertake research or experimentation.

(3) The HCA may provide other information services.

(4) The HCA may facilitate—

(a) the publication or other dissemination or promotion of ideas or information,

(b) research or experimentation, or

(c) the provision of other information services.

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Commencement Information
I39 S. 38 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(p)** (with arts. 6-13)

39 Advice, education and training

(1) The HCA may provide—
(a) advice, education or training, or
(b) other advisory, education or training services.

(2) The HCA may facilitate the provision of—
(a) advice, education or training, or
(b) other advisory, education or training services.

Commencement Information
I40 S. 39 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(p)** (with arts. 6-13)

40 Guidance

(1) The HCA may give guidance to such persons as it considers appropriate about any matters relating to its objects.

(2) Before giving guidance under this section, the HCA must consult such persons as it considers appropriate.

(3) As soon as reasonably practicable after giving guidance under this section, the HCA must take such steps as the HCA considers appropriate to bring it to the attention of those affected by it.

(4) The HCA may revoke guidance given under this section.

(5) The HCA—
(a) must, before revoking guidance under this section, consult such persons as it considers appropriate, and
(b) must, as soon as reasonably practicable after the revocation, take such steps as it considers appropriate to bring the revocation to the attention of those affected by it.

(6) References in this section to giving guidance include references to giving guidance by varying existing guidance.

Commencement Information
I41 S. 40 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(p)** (with arts. 6-13)

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Functions in relation to companies and other persons

41 Control of subsidiaries

(1) The HCA must ensure that no subsidiary of the HCA engages, without the consent of the Secretary of State, in an activity which the HCA would not be required or permitted to carry on.

(2) The HCA must ensure that no subsidiary of the HCA—
  (a) borrows from a person other than the HCA, or
  (b) raises money by the issue of shares or stock to a person other than the HCA,
without the consent of the Secretary of State.

Commencement Information
I42 S. 41 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(q)** (with arts. 6-13)

42 Agency arrangements with UDCs

(1) The HCA may, with the consent of the Secretary of State, appoint an urban development corporation to act as its agent.

(2) The appointment—
  (a) may be in connection with any of the functions of the HCA other than its functions in connection with Chapter 3, and
  (b) is to be on such terms as may be agreed.

(3) The appointment must specify the functions in connection with which it is made.

(4) An urban development corporation must act as agent in accordance with the terms of its appointment.

(5) An urban development corporation may arrange for any of its property or staff to be made available to the HCA if—
  (a) the purpose is to assist the HCA to exercise any of its functions, and
  (b) the HCA asks the urban development corporation to make the property or staff available.

(6) The property or staff are to be made available for such period, and on such other terms, as the urban development corporation considers appropriate.

(7) In this Part "urban development corporation" means a corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980 (c. 65).

Commencement Information
I43 S. 42 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(r)** (with arts. 6-13)

43 Acting with, or for, other persons: general

(1) The HCA may act with other persons (whether in partnership or otherwise).

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(2) The HCA may act as agent for other persons.

Commencement Information
I44 S. 43 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(s)** (with arts. 6-13)

44 Local government involvement

(1) The HCA must from time to time consult such representatives of local government as the HCA considers appropriate about how the HCA pursues its objects.

(2) The HCA must from time to time publish a statement about how it proposes to comply with subsection (1).

(3) Before publishing a statement the HCA must consult such persons as it considers appropriate.

Commencement Information
I45 S. 44 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

Other

45 Support services

(1) The HCA may provide services in support of a project.

(2) The HCA may, in particular—
- (a) second staff to the project,
- (b) provide consultants or other manpower resources to the project on a temporary basis, or
- (c) lend or otherwise provide technical, property or other resources to the project.

(3) The HCA may facilitate the provision of services in support of a project.

Commencement Information
I46 S. 45 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(t)** (with arts. 6-13)

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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CHAPTER 5

SUPPLEMENTARY

Certain supervisory powers of the Secretary of State

46 Guidance by the Secretary of State

(1) The Secretary of State may give guidance to the HCA as to the exercise of any of its functions.

(2) Before giving guidance under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

(3) The Secretary of State must publish any guidance given under this section as soon as reasonably practicable after giving it.

(4) The Secretary of State may revoke guidance given under this section.

(5) The Secretary of State must—
- (a) consult, before revoking guidance under this section, such persons as the Secretary of State considers appropriate, and
- (b) publish the fact that the guidance has been revoked as soon as reasonably practicable after the revocation.

(6) The HCA must, in exercising its functions, have regard to any guidance for the time being in force under this section.

(7) References in this section to giving guidance include references to giving guidance by varying existing guidance.

Commencement Information
I47 S. 46 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

47 Directions by the Secretary of State

(1) The Secretary of State may give the HCA general or specific directions as to the exercise of any of its functions.

(2) The Secretary of State must publish any directions given by the Secretary of State under this Part as soon as reasonably practicable after giving them.

(3) The Secretary of State—
- (a) may revoke any directions given by the Secretary of State under this Part, and
- (b) must publish the fact that the directions have been revoked as soon as reasonably practicable after the revocation.

(4) The HCA must comply with any directions of the Secretary of State in force under this Part.

(5) Subsections (2) and (3)(b) do not apply to directions given under section 22 or paragraph 7 of Schedule 1; and this section does not apply to directions given under Schedule 4.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) References in this Part to the Secretary of State giving directions include references to the Secretary of State giving directions by varying existing directions.

Commencement Information
I48 S. 47 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

48 Consents of the Secretary of State

(1) Any consent of the Secretary of State required under this Part may be given—
(a) unconditionally or subject to conditions, and
(b) generally or specifically.

(2) The Secretary of State may vary or revoke any such consent except in the case of anything already done, or agreed to be done, on the authority of it.

(3) A variation or revocation under subsection (2) does not have effect until the Secretary of State has served notice of it on the HCA or (as the case may be) the other person to whom the consent is given.

Commencement Information
I49 S. 48 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(u)** (with arts. 6-13)

Abolition of existing bodies

49 Abolition of Urban Regeneration Agency

The Urban Regeneration Agency shall cease to exist on such day as the Secretary of State may by order appoint.

Modifications etc. (not altering text)
C1 S. 49: 1.4.2009 appointed by S.I. 2009/801, art. 2

Commencement Information
I50 S. 49 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

50 Abolition of the Commission for the New Towns

(1) The Commission for the New Towns shall cease to exist on such day as the Secretary of State may by order appoint.

(2) Schedule 5 (which transfers Welsh functions of the Commission to the Welsh Ministers and makes other amendments of the New Towns Act 1981 (c. 64)) has effect.

Modifications etc. (not altering text)
C2 S. 50(1): 1.4.2009 appointed by S.I. 2009/801, art. 2

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I51 S. 50(1) in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

I52 S. 50(2) in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 2(1)(v)** (with arts. 6-13)

I53 S. 50(2) in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 3(1)**

51 Property etc. transfers to the HCA and the Welsh Ministers

(1) The Secretary of State may make one or more schemes for—

(a) the transfer to the HCA of designated property, rights or liabilities of—

(i) the Urban Regeneration Agency,

(ii) the Commission for the New Towns,

(iii) a regional development agency (within the meaning of the Regional Development Agencies Act 1998 (c. 45)), or

(iv) a Minister of the Crown, or

(b) the transfer to the Welsh Ministers of designated property, rights or liabilities of—

(i) the Urban Regeneration Agency, or

(ii) the Commission for the New Towns.

(2) On the transfer date, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.

(3) Schedule 6 (which makes further provision about the making of schemes) has effect.

(4) In this section and in Schedule 6—

"designated" in relation to a scheme, means specified in, or determined in accordance with, the scheme,

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975 (c. 26),

"the transfer date" means a date specified by a scheme as the date on which the scheme is to have effect.

(5) Schedule 7 makes provision about the tax implications of schemes under this section (and schemes under section 65).

Commencement Information

I54 S. 51 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

52 Role of the HCA in relation to former CNT functions

(1) The HCA must, so far as practicable, exercise its powers in relation to—

(a) any property, rights or liabilities of the Commission for the New Towns transferred to it by virtue of section 51 and Schedule 6,

(b) any property, rights or liabilities of a new town development corporation transferred to it by virtue of section 41 of, and Schedule 10 to, the New Towns Act 1981 (c. 64),

(c) any undertaking, or part of an undertaking, of an urban development corporation transferred to it by virtue of an agreement under section 165 of the Local Government, Planning and Land Act 1980 (c. 65), or

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(d) any property, rights or liabilities of an urban development corporation transferred to it by virtue of an order under section 165B of that Act,

for the purposes of the objects mentioned in section 2(1) or for purposes incidental to those purposes.

(2) But subsection (1) does not apply if the HCA does not consider it appropriate to exercise its powers in this way having regard, in particular, to the purposes for which the transferred property was held by the Commission for the New Towns, the new town development corporation or (as the case may be) the urban development corporation.

(3) In such a case, the HCA must exercise its powers in relation to the transferred property in such a way as it considers appropriate having regard, in particular, to—

(a) the objects mentioned in section 2(1), and

(b) the purposes for which the transferred property was held by the body concerned,

and the references in this Part to the objects of the HCA are to be read accordingly.

(4) In this section—

"new town development corporation" means a development corporation established under section 3 of the New Towns Act 1981 (c. 64),

"transferred property" means any property, rights or liabilities, or any undertaking or part of an undertaking, falling within paragraphs (a) to (d) of subsection (1) above.

Commencement Information

I55 S. 52 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

53 Interim arrangements

(1) The Secretary of State may by notice require the Urban Regeneration Agency or the Commission for the New Towns to provide staff, premises, facilities or other assistance on a temporary basis to—

(a) the HCA, or

(b) the Welsh Ministers.

(2) In paragraph 1(1) of Schedule 17 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) (constitution of the Urban Regeneration Agency: number of members), for "six" substitute " two ".

(3) This section is without prejudice to the power of the Secretary of State under section 322(1).

Commencement Information

I56 S. 53 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Other

54 Validity of transactions

(1) A transaction between a person and the HCA is not invalid merely because of a failure by the HCA to exercise its powers for the purposes mentioned in sections 3 and 4(2).

(2) A transaction between a person and the HCA is not invalid merely because it was carried out in contravention of a direction under section 47.

(3) A transaction between a person and a subsidiary of the HCA is not invalid merely because of a failure by the HCA to comply with section 41(1) or (2).

(4) A person entering into a transaction with the HCA or a subsidiary of the HCA need not be concerned as to whether—
- (a) there has been a failure of the kind mentioned in subsection (1) or (3), or
- (b) a direction of the kind mentioned in subsection (2) has been given or complied with.

(5) A disposal of land by the HCA is not invalid merely because any consent required by section 10(1) or (3) has not been given.

(6) A person dealing with—
- (a) the HCA, or
- (b) a person claiming under the HCA,

in relation to any land need not be concerned as to whether any consent required by section 10(1) or (3) has been given.

Commencement Information
I57 S. 54 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

55 Notices

(1) Any notice required or authorised under this Part to be served on any person may be served by—
- (a) delivering it to the person,
- (b) leaving it at the person's proper address, or
- (c) sending it by post to the person at that address.

(2) Any such notice may—
- (a) in the case of a body corporate, be served in accordance with subsection (1) on an officer of the body, and
- (b) in the case of a partnership, be served in accordance with subsection (1) on a partner or a person having the control or management of the partnership business.

(3) For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of any person on whom a notice is to be served is the person's last known address except as follows.

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(4) For the purposes of this section and section 7 of the Act of 1978 in its application to this section, the proper address is—

(a) in the case of service on a body corporate or an officer of the body, the address of the registered or principal office of the body, and

(b) in the case of service on a partnership, a partner or a person having the control or management of the partnership business, the address of the principal office of the partnership.

(5) For the purposes of subsection (4) the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

(6) Subsection (7) applies if a person to be served under this Part with a notice has specified an address within the United Kingdom other than the person's proper address (as decided under subsections (3) and (4)) as the one at which the person, or someone on the person's behalf, will accept documents of the same description as the notice.

(7) The specified address is also to be treated for the purposes of this section and section 7 of the Act of 1978 in its application to this section as the person's proper address.

(8) Subsection (9) applies if the name or address of any owner, lessee or occupier of land on whom a notice is to be served under this Part cannot, after reasonable inquiry, be ascertained.

(9) The notice may be served by—

(a) leaving it in the hands of a person who is, or appears to be, resident or employed on the land, or

(b) leaving it conspicuously affixed to a building or object on the land.

(10) Any notice required or authorised under this Part to be served on any person may be served on the person by transmitting the text of the notice to the person by means of an electronic communications network or by other means but while in electronic form provided the text is received by the person in legible form and is capable of being used for subsequent reference.

(11) In this section—

"body corporate" includes a limited liability partnership,

"director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate,

"officer of a body corporate" means any director, manager, secretary or other similar officer of the body corporate,

"partnership" does not include a limited liability partnership,

and references to serving include references to similar expressions (such as giving or sending).

Commencement Information

I58 S. 55 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

56 Consequential amendments: Part 1

Schedule 8 (which contains amendments of enactments) has effect.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I59 S. 56 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 2(1)**

I60 S. 56 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 2(1)(w)** (with arts. 6-13)

I61 S. 56 in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 3(2)**

57 Interpretation: Part 1

(1) In this Part—

"conduit system" has the same meaning as in the electronic communications code; and references to providing a conduit system are to be read in accordance with paragraph 1(3A) of that code,

"develop" (and development), in relation to land or infrastructure, includes redevelop (and redevelopment),

"electronic communications apparatus" has the same meaning as in the electronic communications code,

"the electronic communications code" has the same meaning as in Chapter 1 of Part 2 of the Communications Act 2003 (c. 21),

"electronic communications code network" means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the Act of 2003 (application of the electronic communications code), and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide,

"electronic communications code operator" means a person in whose case the electronic communications code is applied by a direction under section 106 of the Act of 2003,

"electronic communications network" has the same meaning as in the Act of 2003,

"enactment" includes subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)),

"financial year" means—

(a) the period beginning with the day on which the HCA is established and ending with the next 31 March, and

(b) each subsequent period of 12 months ending with 31 March,

"improve", in relation to housing and other land, includes refurbish, equip and fit out,

"modifications" includes omissions,

"notice" means notice in writing,

"operator", in relation to an electronic communications code network means—

(a) the electronic communications code operator providing that network, or

(b) the Secretary of State, so far as the Secretary of State is providing or proposing to provide that network,

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"provide" and related expressions, in relation to an electronic communications network, are to be read in accordance with section 32(4) of the Communications Act 2003 (c. 21).

(2) References in this Part to powers of the HCA do not include references to powers contained in duties imposed on the HCA.

Commencement Information

I62 S. 57 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 2(1)**

I63 S. 57 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 2(1)(x)** (with arts. 6-13)

58 Index of defined expressions: Part 1

In this Part, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions listed in the right-hand column.

Expression	*Provision*
Allotment	Section 9(7)
Building	Section 2(3)
Caravan	Section 2(3)
Common	Section 9(7)
Conduit system (and providing such a system)	Section 57(1)
Designated area	Section 13(5)
Designation order	Section 13(5)
Develop (and development)	Section 57(1)
Electronic communications apparatus	Section 57(1)
Electronic communications code	Section 57(1)
Electronic communications code network	Section 57(1)
Electronic communications code operator	Section 57(1)
Electronic communications network	Section 57(1)
Enactment	Section 57(1)
Financial year	Section 57(1)
Giving directions	Section 47(6)
The HCA	Section 1(1)
Housing	Section 2(3)
Improve	Section 57(1)
Infrastructure	Section 2(3)

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Land	Section 2(3) (and Schedule 1 to the Interpretation Act 1978 (c. 30))
Local planning authority (in relation to designation orders or proposed designation orders)	Section 13(5)
Modifications	Section 57(1)
Notice	Section 57(1)
Objects of the HCA	Sections 2, 19(5) and 52(3)
Open space	Section 9(7)
Operator (in relation to electronic communications code network)	Section 57(1)
Permitted purposes	Section 13(5)
Powers of the HCA	Section 57(2)
Provide (in relation to an electronic communications network)	Section 57(1)
Registered provider of social housing	Section 80(2)(a)
Regulator of Social Housing	Section 81(2)(a)
Social housing (and its provision)	Section 32(13)
Social housing assistance	Section 32(13)
Subsidiary	Section 23(5)
Urban development corporation	Section 42(7)

Commencement Information

I64 S. 58 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 2(1)**

I65 S. 58 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 2(1)(x)** (with arts. 6-13)

I66 S. 58 in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 2(1)(e)**

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PART 2

REGULATION OF SOCIAL HOUSING

CHAPTER 1

INTRODUCTION

Preliminary

59 Purpose

The purpose of this Part is to regulate the provision of social housing (as defined in sections 68 to 77) by English bodies (as defined in section 79).

Commencement Information

I67 S. 59 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

VALID FROM 01/04/2010

60 Structural overview

(1) This Part replaces the system of "registered social landlords" under Part 1 of the Housing Act 1996 (c. 52).

(2) That Part will continue to apply in relation to Wales (see section 61).

(3) Certain provisions of that Part—
- (a) are applied in relation to England by this Part (see section 179), or
- (b) are preserved although they apply to England only (see section 124).

(4) The Table describes the content of this Part.

Chapter	*Sections*	*Topic*	*Contents*
1	59 to 80	Introduction	(a) Preliminary (b) Social housing (c) Other key concepts
2	81 to 109	The Social Housing Regulator	(a) Constitution (b) Proceedings (c) Powers (d) Money (e) Relationship with other bodies

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			(f)	Information
3	110 to 121	Registration	(a)	Introduction
			(b)	Eligibility
			(c)	Procedure
4	122 to 169	Registered providers	(a)	General provisions
			(b)	Accounts
			(c)	Insolvency etc.
			(d)	Restructuring and dissolution
5	170 to 191	Disposal of property **[**[F6]by private registered providers**]**	(a)	Introductory
			(b)	Regulator's consent
			(c)	Proceeds
			(d)	Tenants' rights and duties
			(e)	Miscellaneous
			(f)	Right to acquire
			(g)	Consents under other legislation
6	192 to 217	Regulatory powers	(a)	Standards
			(b)	Monitoring
			(c)	Management and constitution
			(d)	Guidance
			(e)	Managers of social housing
7	218 to **[**[F7]269B**]**	Enforcement powers	(a)	General
			(b)	Enforcement notice
			(c)	Penalty
			(d)	Compensation
			(e)	Management
			(f)	Restrictions on dealings
			(g)	Suspension and

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				removal of officers
			[F8(h)	Censure of local authority employees]
8	270 to 278	General	(a)	Interpretation
			(b)	Miscellaneous

Textual Amendments

F6 Words in s. 60(4) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 1(a)**

F7 Word in s. 60(4) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 1(b)**

F8 Words in s. 60(4) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 1(c)**

Commencement Information

I68 S. 60 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

VALID FROM 01/04/2010

61 Restriction of "registered social landlord" system to Wales

(1) Part 1 of the Housing Act 1996 (c. 52) (social rented sector) is amended as follows (and the title of Part 1 becomes "Social Rented Sector in Wales").

(2) Before section 1 (register of social landlords) insert—

"A1 **Introduction**

This Chapter provides for the registration of social landlords in Wales."

(3) In section 1—

(a) for "The Relevant Authority" substitute " The Welsh Ministers ", and

(b) omit subsections (1A) and (1B).

(4) After section 1 insert—

"**1A Welsh bodies**

In this Chapter "Welsh body" means a body which is—

(a) a registered charity whose address, for the purposes of registration by the Charity Commission for England and Wales, is in Wales,

(b) an industrial and provident society whose registered office for the purposes of the Industrial and Provident Societies Act 1965 is in Wales, or

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(c) a company within the meaning of the Companies Act 2006 which has its registered office for the purposes of that Act in Wales."

(5) In section 2 (eligibility for registration)—

(a) in subsection (1), for "A body" substitute " A Welsh body ",

(b) in subsection (2) after "that the body is" insert " principally concerned with Welsh housing, is ",

(c) after subsection (2) insert—

"(2A) A body is principally concerned with Welsh housing if the Welsh Ministers think—

(a) that it owns housing only or mainly in Wales, or

(b) that its activities are principally undertaken in respect of Wales;

and once a body has been registered in reliance on paragraph (a) or (b) it does not cease to be eligible for registration by virtue only of ceasing to satisfy that paragraph.",

(d) in subsection (7) for "Secretary of State" (in each place) substitute " Welsh Ministers ", and

(e) in subsection (8) for "either House of Parliament" substitute " the National Assembly for Wales ".

(6) In section 3 (registration)—

(a) in subsection (1) for "any body" substitute " any Welsh body ", and

(b) in subsection (4) for "A body" substitute " A Welsh body ".

(7) The table sets out substitutions which have effect throughout the Part (except section 51 and Schedule 2); and where necessary in consequence of those substitutions, for words in the singular substitute appropriate corresponding words in the plural.

Expression	***Substitution***
"the Relevant Authority"	"the Welsh Ministers"
"the Authority"	"the Welsh Ministers"
"the Relevant Authority's"	"the Welsh Ministers"

(8) Omit section 56 (meaning of "the Relevant Authority").

(9) Sections 62 and 63 make other consequential amendments.

VALID FROM 01/04/2010

62 References to Welsh Ministers

In the following provisions of the Housing Act 1996 (c. 52)—

(a) for "Secretary of State" substitute " Welsh Ministers ",

(b) for "Secretary of State makes" substitute " Welsh Ministers make ",

(c) for "he" substitute " they ",

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(d) for "him" substitute " them " (except in section 12A(4)), and

(e) for "considers" substitute " consider ".

Provision	*Topic*
Section 9(1A)(b)	Consent for disposal of land
Section 12A(4)	Right of first refusal: regulations
Section 15A(5)	Deferred resale agreements: order
Section 17(1), (2)(b), (5)(b) and (6)	Right to acquire: orders and regulations
Section 18(5)(b)	Social housing grants: appointment of agent
Section 23(6)	Loans: approved schemes
Section 27A(3)	Grants to other bodies: further provision
Section 29(1), (2) and (3)	Commutation of special residual subsidy
Section 30(5)(b)	Collection of information: notice
Section 39(3)	Insolvency etc: order defining terms
Section 46(7)(b)	Appointment of manager: order
Section 52(1) and (3)	Orders: general
Section 53(1), (4) and (5)	Determinations: general
Section 55(2)	Consequential: order
Paragraph 9(3A)(b) of Schedule 1	Change of rules of industrial and provident society: consent
Paragraph 11(3A)(b) of Schedule 1	Change of articles of company: consent
Paragraph 15A(1) of Schedule 1	Transfer of assets of charity on dissolution: order

VALID FROM 01/04/2010

63 References to National Assembly for Wales

In the following provisions of the Housing Act 1996 (c. 52) for "either House of Parliament" substitute " the National Assembly for Wales ".

Provision	*Topic*
Section 12A(8)(b)	Right of first refusal: regulations
Section 15A(6)(b)	Deferred resale agreements: order

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Section 17(7)	Right to acquire: orders and regulations
Section 27A(10)	Grants to other bodies: order
Section 39(3)	Insolvency: order
Section 55(3)	Consequential: order
Paragraph 15A(4) of Schedule 1	Transfer of assets of charity on dissolution: order

64 Dissolution of Housing Corporation

(1) The Secretary of State shall by order make provision for the dissolution of the Housing Corporation.

(2) The Secretary of State may by order make consequential amendment of enactments referring to the Housing Corporation.

(3) Omit section 33A of the Housing Associations Act 1985 (c. 69) (provision of services between the Corporations).

Commencement Information

I69 S. 64(1)(2) in force at 16.2.2009 by S.I. 2009/363, **art. 2**

65 Transfer schemes

(1) The Secretary of State may make one or more schemes for the transfer of the Housing Corporation's property, rights or liabilities to—

(a) the regulator,

(b) the HCA, or

(c) the Secretary of State.

(2) On the transfer date, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.

(3) Schedule 6 applies to a scheme under this section.

(4) In this section—

"designated", in relation to a scheme, means specified in or determined in accordance with the scheme;

"the transfer date" means the date specified by a scheme as the date on which the scheme is to have effect.

(5) Schedule 7 makes provision about the tax implications of schemes under this section (and schemes under section 51).

Commencement Information

I70 S. 65 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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66 Interim arrangements

The Secretary of State may by notice require the Housing Corporation to provide staff, premises, facilities or other assistance to—

(a) the regulator, or

(b) the HCA.

Commencement Information

I71 S. 66 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **art. 3(1)**

67 Transitional arrangements

(1) The Secretary of State may by order transfer functions of the Housing Corporation to—

(a) the regulator,

(b) the HCA, or

(c) the regulator and the HCA jointly or concurrently.

(2) An order under subsection (1) may make provision in relation to English registered social landlords which is similar to any provision made by this Part in relation to registered providers.

(3) "English registered social landlord" means a body—

(a) which is registered as a social landlord under Part 1 of the Housing Act 1996, and

(b) which does not fall within paragraphs (a) to (c) of section 56(2) of that Act (Welsh bodies).

(4) The Secretary of State may by order make further provision in respect of a function transferred under this section (which may, in particular, include provision for the function to cease to be exercisable).

(5) Provision made under this section, including provision made by virtue of section 320(1)(d), may modify an enactment.

(6) Provision under section 322(1) in connection with the coming into force of a provision of this Act may, in particular, include transitional provision having regard to the effect of provision made under this section.

Commencement Information

I72 S. 67 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **art. 3(1)**

Social housing

68 Basic principle

(1) In this Part "social housing" means—

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(a) low cost rental accommodation (defined by section 69), and
(b) low cost home ownership accommodation (defined by section 70).

(2) Accommodation which becomes "social housing" by satisfying subsection (1)(a) or (b) remains "social housing" for the purposes of this Part unless and until an event specified in sections 73 to 76 occurs.

(3) Section 77 makes transitional provision as a result of which certain accommodation is to be treated as "social housing" whether or not it satisfies subsection (1)(a) or (b).

Commencement Information
I73 S. 68 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

69 Low cost rental

Accommodation is low cost rental accommodation if—
(a) it is made available for rent,
(b) the rent is below the market rate, and
(c) the accommodation is made available in accordance with rules designed to ensure that it is made available to people whose needs are not adequately served by the commercial housing market.

Commencement Information
I74 S. 69 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

70 Low cost home ownership

(1) Accommodation is low cost home ownership accommodation if the following conditions are satisfied.

(2) Condition 1 is that the accommodation is occupied, or made available for occupation, in accordance with—
(a) shared ownership arrangements,
(b) equity percentage arrangements, or
(c) shared ownership trusts.

(3) Condition 2 is that the accommodation is made available in accordance with rules designed to ensure that it is made available to people whose needs are not adequately served by the commercial housing market.

(4) "Shared ownership arrangements" means arrangements under a lease which—
(a) is granted on payment of a premium calculated by reference to a percentage of either the value of the accommodation or the cost of providing it, and
(b) provides that the tenant (or the tenant's personal representatives) will or may be entitled to a sum calculated by reference to the value of the accommodation.

(5) "Equity percentage arrangements" means arrangements under which—
(a) the owner of a freehold or leasehold interest in residential property ("the seller") conveys it to an individual ("the buyer"),

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(b) the buyer, in consideration for the conveyance—

(i) pays the seller a sum (the "initial payment") expressed to represent a percentage of the value of the interest at the time of the conveyance, and

(ii) agrees to pay the seller other sums calculated by reference to a percentage of the value of the interest at the time when each sum is to be paid, and

(c) the liability to make any payment required by the arrangements (apart from the initial payment) is secured by a mortgage.

(6) Shared ownership trusts has the same meaning as in Schedule 9 to the Finance Act 2003 (c. 14) (stamp duty land tax).

(7) The Secretary of State may make regulations amending—

(a) the definition of "low cost home ownership accommodation";

(b) the definition of any of the sub-categories specified in that definition.

Commencement Information

I75 S. 70 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

71 Shared ownership low cost rental

Accommodation which is both low cost rental accommodation and low cost home ownership accommodation is to be treated as the latter and not as the former.

Commencement Information

I76 S. 71 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

72 Regulations

(1) The Secretary of State may make regulations providing that specified property, or a specified class of property, is or is not to be treated as social housing for the purposes of this Part.

(2) The regulations may provide for property to be social housing despite not satisfying section 68(1)(a) or (b) where the Secretary of State thinks the property is of a kind, or is provided in circumstances, that serve the needs of a group whose needs are not adequately served by the commercial housing market.

(3) The regulations—

(a) may override section 68(2),

(b) are subject to sections 68(3) and 77, and

(c) are subject to sections 69 and 70 (but may clarify doubt about the application of those sections).

(4) The regulations—

(a) may make provision by reference to the opinion of the regulator or another specified person, and

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(b) may make provision by reference to designation, agreement or other action by the regulator or another specified person.

Commencement Information

I77 S. 72 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

73 Leaving the social housing stock: sale

(1) A dwelling ceases to be social housing if it is sold to the tenant.

(2) Low cost rental accommodation is "sold to the tenant" when the tenant exercises a statutory or contractual right and as a result becomes the owner of—

(a) the freehold interest in the property, or

(b) the leasehold interest previously owned by the person providing the social housing.

(3) Low cost home ownership accommodation of the shared ownership kind is "sold to the tenant" when the tenant exercises a statutory or contractual right and as a result becomes the owner of—

(a) the freehold interest in the property, or

(b) the leasehold interest previously owned by the person providing the social housing.

(4) Low cost home ownership accommodation of the equity percentage kind is "sold to the tenant" when the "buyer" (see section 70(5)(a)) exercises a statutory or contractual right as a result of which the equity percentage arrangements (see section 70(5)) come to an end.

(5) Low cost home ownership accommodation of the shared ownership trust kind comes to an end when the "purchaser" (see paragraph 7(4)(a) of Schedule 9 to the Finance Act 2003 (c. 14)) exercises a statutory or contractual right as a result of which the trust comes to an end.

Commencement Information

I78 S. 73 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

74 Leaving the social housing stock: expired lease

(1) A dwelling ceases to be social housing if—

(a) the provider holds a leasehold interest in the dwelling, and

(b) the leasehold interest expires.

(2) A lease from an associate or subsidiary of the provider is disregarded for the purposes of subsection (1).

Commencement Information

I79 S. 74 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

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75 Leaving the social housing stock: disposal with consent

(1) A dwelling ceases to be social housing if it is disposed of with the regulator's consent in accordance with—
- (a) Chapter 5,
- (b) section 171D of the Housing Act 1985 (c. 68) (consent to certain disposals of housing obtained subject to the preserved right to buy), or
- (c) section 81 or 133 of the Housing Act 1988 (c. 50) (consent to certain disposals of housing obtained from housing action trusts or local authorities).

(2) Subsection (1) does not apply to a disposal in pursuance of shared ownership arrangements or equity percentage arrangements.

(3) Subsection (1) does not apply if the consent is conditional upon the dwelling continuing to be low cost rental accommodation or low cost home ownership accommodation.

(4) A condition of that kind shall include provision for determining when the dwelling ceases to be social housing.

Commencement Information
I80 S. 75 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

76 Leaving the social housing stock: regulator's direction

(1) The regulator may direct that a specified dwelling is to cease to be social housing.

(2) The regulator may make a direction only on the application of the provider.

Commencement Information
I81 S. 76 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

77 Housing stock under Housing Act 1996

(1) This section applies to property owned by a registered social landlord within the meaning of Part 1 of the Housing Act 1996 (c. 52) before the coming into force of section 61 of this Act.

(2) Property to which this section applies is social housing—
- (a) whether or not it satisfies section 68(1)(a) or (b), and
- (b) unless and until an event specified in sections 73 to 76 occurs.

(3) But property to which any of the exceptions below applies when section 61 comes into force is social housing only if the purchase, construction or renovation of the property was funded by means of a grant under—
- (a) section 19 (financial assistance by the HCA),
- (b) section 18 of the Housing Act 1996 (social housing grant), or
- (c) section 50 of the Housing Act 1988, section 41 of the Housing Associations Act 1985 (c. 69) or section 29 or 29A of the Housing Act 1974 (c. 44) (housing association grant).

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(4) Exception 1 is accommodation let on the open market.

(5) Exception 2 is accommodation made available only to students in full-time education or training.

(6) Exception 3 is a care home (within the meaning of the Care Standards Act 2000 (c. 14)) in which nursing is provided.

(7) Exception 4 is accommodation provided in response to a request by the Secretary of State under section 100 of the Immigration and Asylum Act 1999 (c. 33) (support for asylum seekers).

(8) Exception 5 is property of a kind specified by regulations made by the Secretary of State.

Commencement Information

I82 S. 77 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

Other key concepts

78 Regulator of Social Housing

(1) Section 81 establishes the Office referred to in this Part as “the regulator”.

(2) Chapter 2 makes provision for the regulator's constitution and general powers.

(3) Other provisions of this Part confer functions on the regulator.

Commencement Information

I83 S. 78 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

79 English bodies

(1) In this Part “English body” means—

(a) a registered charity whose address for the purposes of registration by the Charity Commission is in England,

(b) an industrial and provident society whose registered office for the purposes of the Industrial and Provident Societies Act 1965 (c. 12) is in England,

(c) a registered company which has its registered office in England,

(d) a community land trust which owns land in England, and

(e) any other person (whether or not a body corporate registered under the law of the United Kingdom) which—

(i) is not a Welsh body within the meaning of section 1A of the Housing Act 1996 (c. 52), and

(ii) makes available, or intends to make available, accommodation in England.

(2) In subsection (1)(d) “community land trust” means a body corporate which satisfies the conditions below.

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(3) In those conditions "local community" means the individuals who live or work, or want to live or work, in a specified area.

(4) Condition 1 is that the body is established for the express purpose of furthering the social, economic and environmental interests of a local community by acquiring and managing land and other assets in order—
  (a) to provide a benefit to the local community, and
  (b) to ensure that the assets are not sold or developed except in a manner which the trust's members think benefits the local community.

(5) Condition 2 is that the body is established under arrangements which are expressly designed to ensure that—
  (a) any profits from its activities will be used to benefit the local community (otherwise than by being paid directly to members),
  (b) individuals who live or work in the specified area have the opportunity to become members of the trust (whether or not others can also become members), and
  (c) the members of the trust control it.

Commencement Information
I84 S. 79 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

80 Provider of social housing

(1) In this Chapter a reference to the provider of social housing is to be construed as follows.

Type of social housing	*Provider*
Low cost rental accommodation	The landlord
Low cost home ownership accommodation: shared ownership	The landlord
Low cost home ownership accommodation: equity percentage	"The seller" within the meaning of section 70(5)(a)
Low cost home ownership accommodation: shared ownership trust	The "social landlord" within the meaning of paragraph 7(3) of Schedule 9 to the Finance Act 2003

(2) Chapter 3 provides for the establishment of a register of providers of social housing: persons listed in the register—
  (a) may be referred to in an enactment or other instrument as "registered providers of social housing", and
  (b) are referred to in this Part as "registered providers".

Commencement Information
I85 S. 80 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

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CHAPTER 2

THE SOCIAL HOUSING REGULATOR

Constitution

81 Establishment

(1) There shall be a body corporate to be known as the Office for Tenants and Social Landlords.

(2) The Office—
- (a) may be referred to in an enactment or other instrument as "the Regulator of Social Housing", and
- (b) is referred to in this Part as "the regulator".

(3) The Office (and any member of the Office)—
- (a) is not the servant or agent of the Crown, and
- (b) does not share any immunity or privilege of the Crown.

Commencement Information
I86 S. 81 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

82 Membership

(1) The regulator shall consist of—
- (a) a person appointed by the Secretary of State as chair,
- (b) neither less than 3 nor more than 10 other members appointed by the Secretary of State, and
- (c) the chief executive appointed under section 84.

(2) The Secretary of State must consult the chair before appointing other members.

(3) The Secretary of State may appoint a person under subsection (1) only if satisfied that the person has no financial or other personal interest in the performance of functions.

(4) Former membership of the Housing Corporation is not a bar to appointment.

(5) In this Part "appointed member" means—
- (a) the chair, or
- (b) a member appointed under subsection (1)(b).

(6) A vacancy for, or a defect in the appointment of, the chair, the chief executive or another member does not prevent or invalidate proceedings.

Commencement Information
I87 S. 82 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

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83 Tenure

(1) An appointed member holds and vacates office in accordance with the terms of appointment (subject to this section).

(2) A period of appointment may not exceed 5 years (but a member may be reappointed).

(3) An appointed member may resign by notice to the Secretary of State.

(4) The Secretary of State may dismiss an appointed member if satisfied that any of the following cases applies—

(a) Case 1 is where a member has been absent from meetings of the regulator for a period of more than 6 months without its permission.

(b) Case 2 is where a member is subject to—

(i) a bankruptcy restrictions order, or

(ii) an interim bankruptcy restrictions order.

(c) Case 3 is where—

(i) a member's estate has been sequestrated by a court in Scotland, or

(ii) under the law of Scotland, a member has made a composition or arrangement with, or granted a trust deed for, creditors.

(d) Case 4 is where a member has a financial or other personal interest which is likely to influence the performance of functions.

(e) Case 5 is where a member has misbehaved or is for any other reason unable, unsuitable or unwilling to perform functions.

Commencement Information

I88 S. 83 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

84 Chief executive

(1) The regulator shall appoint a chief executive.

(2) The regulator may appoint a person only if approved by the Secretary of State.

(3) The first chief executive shall be appointed by the Secretary of State, having consulted the chair.

Commencement Information

I89 S. 84 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

85 Other staff

The regulator may appoint employees (in addition to the chief executive).

Commencement Information

I90 S. 85 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

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Proceedings

86 Fundamental objectives

(1) The regulator shall perform its functions with a view to achieving the following objectives so far as possible.

(2) Objective 1 is to encourage and support a supply of well-managed social housing, of appropriate quality, sufficient to meet reasonable demands.

(3) Objective 2 is to ensure that actual or potential tenants of social housing have an appropriate degree of—
  (a) choice, and
  (b) protection.

(4) Objective 3 is to ensure that tenants of social housing have the opportunity to be involved in its management.

(5) Objective 4 is to ensure that registered providers of social housing perform their functions efficiently, effectively and economically.

(6) Objective 5 is to ensure that registered providers of social housing are financially viable and properly managed.

(7) Objective 6 is to encourage registered providers of social housing to contribute to the environmental, social and economic well-being of the areas in which the housing is situated.

(8) Objective 7 is to encourage investment in social housing (including by promoting the availability of financial services to registered providers of social housing).

(9) Objective 8 is to avoid the imposition of an unreasonable burden (directly or indirectly) on public funds.

(10) Objective 9 is to guard against the misuse of public funds.

(11) Objective 10 is to regulate in a manner which—
  (a) minimises interference, and
  (b) is proportionate, consistent, transparent and accountable.

(12) Pursuit of Objective 10 includes, but is not necessarily limited to, compliance with any duty of the regulator under section 22 of the Legislative and Regulatory Reform Act 2006 (c. 51) (code of practice).

(13) The order in which the objectives are listed in this section is not significant; the regulator shall balance them as it thinks appropriate.

(14) The objectives are referred to in this Part as the regulator's fundamental objectives.

Commencement Information

I91 S. 86 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

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87 Procedure

(1) The regulator may determine its own procedure (which may include provision about a quorum).

(2) The regulator shall make such arrangements as it thinks appropriate for publishing its procedure.

Commencement Information
I92 S. 87 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

88 Conflict of interest

(1) The regulator's procedural arrangements under section 87 must include arrangements for dealing with any conflict of interest of—
- (a) members,
- (b) employees, or
- (c) members of committees and sub-committees.

(2) The arrangements must oblige a person—
- (a) to declare any financial or other personal interest relevant to the exercise of a function, and
- (b) to withdraw from the performance of that function unless the regulator directs otherwise, being satisfied that the interest will not influence performance of the function.

Commencement Information
I93 S. 88 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

89 Committees

(1) The regulator may establish committees and sub-committees.

(2) A committee or sub-committee may include non-members (provided that it includes at least one member).

Commencement Information
I94 S. 89 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

90 Delegation

The regulator may authorise any of the following to exercise a function—
- (a) a committee,
- (b) a sub-committee,
- (c) a member, and
- (d) an employee.

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Commencement Information
I95 S. 90 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

91 Seal

(1) The application of the regulator's seal shall be authenticated by a member or by some other person authorised (generally or specially) for that purpose.

(2) A document purporting to be duly executed under the seal—
- (a) shall be received in evidence, and
- (b) shall be treated as so executed unless the contrary is shown.

Commencement Information
I96 S. 91 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

92 Annual report

(1) As soon as is reasonably practicable after the end of each financial year the regulator shall—
- (a) prepare a report on the performance of its functions during the year, and
- (b) send a copy to the Secretary of State.

(2) The report must, in particular—
- (a) include a statement of the regulator's accounts,
- (b) specify any direction given to the regulator by the Secretary of State in that year under section 197, and
- (c) contain a general description of complaints made to the regulator in that year about the performance of registered providers and of how those complaints have been dealt with.

(3) The Secretary of State shall lay a copy before Parliament.

Commencement Information
I97 S. 92 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

Powers

93 General

(1) The regulator may do anything it thinks necessary or expedient for the purpose of or in connection with the performance of a function conferred on it by this Part or another enactment.

(2) In particular, the regulator may do anything it thinks appropriate for advancing its fundamental objectives.

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Commencement Information

I98 S. 93 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

I99 S. 93 in force at 1.4.2009 by S.I. 2009/803, **art. 7(a)**

VALID FROM 01/04/2010

94 Studies

(1) The regulator may carry out or commission studies designed to improve the economy, effectiveness and efficiency of registered providers.

(2) The regulator may publish a report on a study.

95 Financial assistance

(1 The regulator may, where it thinks it advances a fundamental objective, give financial assistance to a person in connection with—

(a) undertaking research,

(b) preparing guidance,

(c) developing and publicising best practice, or

(d) facilitating the management of social housing by tenants.

(2 Financial assistance under subsection (1) may be given—

(a) by way of grant,

(b) by way of loan,

(c) by defraying expenditure on behalf of a person, or

(d) in any other way except purchasing loan or share capital of a body corporate or giving a guarantee or indemnity.

(3) The regulator may, where it thinks it advances a fundamental objective, give financial assistance to a registered provider by—

(a) lending money to or in respect of the registered provider, or

(b) giving a guarantee or indemnity in respect of the registered provider.

(4) Financial assistance may be given under subsection (3) only with the consent of the Secretary of State (given with the approval of the Treasury).

(5 Financial assistance under subsection (1) or (3) may be given on conditions (which may include provision for repayment, with or without interest).

Commencement Information

I100 S. 95(1)(2)(5) in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

96 Evidence

In considering whether to exercise a power under this Part the regulator may have regard to information or opinions from any source including, in particular, from—

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(a) tenants,
(b) bodies representing tenants,
(c) local housing authorities, or
(d) an ombudsman appointed by virtue of section 124.

Commencement Information
I101 S. 96 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

97 Information, advice etc.

(1) The regulator may for the purpose of advancing its fundamental objectives—
(a) publish ideas or information;
(b) undertake research in relation to social housing;
(c) provide guidance, advice, education or training.

(2) The regulator may for that purpose—
(a) arrange for another person to do anything within subsection (1)(a) to (c);
(b) act jointly with, cooperate with or assist another person doing anything within subsection (1)(a) to (c).

(3) The persons to whom advice may be given under subsection (1) include—
(a) unregistered housing associations (as defined by section 2B of the Housing Associations Act 1985 (c. 69)), and
(b) persons who may be forming a housing association (within the meaning of section 1(1) of that Act).

Commencement Information
I102 S. 97 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

98 Tenant involvement

(1) The regulator shall—
(a) promote awareness of the regulator's functions among tenants of social housing,
(b) where the regulator thinks it appropriate, consult them about the exercise of its functions (for example, by holding meetings), and
(c) where the regulator thinks it appropriate, involve them in the exercise of its functions (for example, by appointing them to committees or sub-committees).

(2) The regulator shall from time to time publish a statement about how it proposes to comply with subsection (1).

(3) Before publishing a statement the regulator must consult such persons as it thinks appropriate.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I103 S. 98 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

Money

99 Remuneration

(1) The regulator may pay to or in respect of appointed members—
- (a) remuneration,
- (b) travelling and other allowances, and
- (c) sums by way of or in respect of pensions and gratuities.

(2) The Secretary of State shall determine rates and eligibility criteria for payments under subsection (1).

(3) If the Secretary of State thinks there are special circumstances that make it right to compensate a person on ceasing to be an appointed member, the regulator may pay compensation determined by the Secretary of State.

(4) The regulator may pay to or in respect of employees —
- (a) remuneration,
- (b) travelling and other allowances, and
- (c) sums by way of or in respect of pensions and gratuities.

(5) In this section a reference to a member or employee includes a reference to a former member or employee.

Commencement Information
I104 S. 99 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

100 Charging

The regulator may charge for giving advice, conducting research or providing other services.

Commencement Information
I105 S. 100 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

101 Assistance by Secretary of State

(1) The Secretary of State may make payments to the regulator by way of grant or loan.

(2) A grant or loan may be subject to conditions (which may include provision for repayment, with or without interest).

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Commencement Information
I106 S. 101 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

102 Borrowing

(1) The regulator may borrow—
- (a) by way of overdraft or otherwise, for the purpose of what it considers to be short-term management of its finances, or
- (b) from the Secretary of State.

(2) The regulator may not borrow otherwise.

Commencement Information
I107 S. 102 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

103 Accounts

(1) The regulator shall keep accounts (and records of its accounts).

(2) As soon as is reasonably practicable after the end of each financial year the regulator shall prepare a statement of accounts in respect of that financial year.

(3) The statement must be in such form as the Secretary of State may direct.

(4) The regulator shall, within such period as the Secretary of State may direct, send a copy of the statement to—
- (a) the Secretary of State, and
- (b) the Comptroller and Auditor General.

(5) The Comptroller and Auditor General shall—
- (a) examine, certify and report on the statement, and
- (b) lay a copy of the report before Parliament.

Commencement Information
I108 S. 103 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

104 Financial year

(1) The regulator's financial year is each period of 12 months beginning with 1st April.

(2) But the first financial year is the period—
- (a) beginning with the day on which section 81 comes into force, and
- (b) ending with the next 31st March.

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Commencement Information
I109 S. 104 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

Relationship with other bodies

105 Cooperation with the HCA

(1) The regulator shall cooperate with the HCA.

(2) In particular, the regulator shall consult the HCA on matters likely to interest it.

Commencement Information
I110 S. 105 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

VALID FROM 01/04/2010

106 Direction to the HCA

(1) The regulator may direct the HCA not to give financial assistance to a specified registered provider—
  (a) under section 19, and
  (b) in connection with social housing.

(2) A direction may be given if—
  (a) the regulator has decided to hold an inquiry into affairs of the registered provider under section 206 (and the inquiry is not concluded),
  (b) the regulator has received notice in respect of the registered provider under section 145, or
  (c) the regulator has appointed an officer of the registered provider under section 269 (and the person appointed has not vacated office).

(3) A direction may prohibit the HCA from giving assistance of a specified kind (whether or not in pursuance of a decision already taken and communicated to the registered provider).

(4) A direction may not prohibit grants to a registered provider in respect of discounts given by the provider on disposals of dwellings to tenants.

(5) A direction shall have effect until withdrawn.

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VALID FROM 01/04/2010

Information

107 Collection

(1) The regulator may for a purpose connected with its functions require a person to provide documents or information which it has reason to believe is or may be in the person's possession and which relates to—
  (a) the financial or other affairs of a registered provider;
  (b) activities which are or may be carried out by a person who is, or who has applied to become, a registered provider.

(2) A requirement may be imposed on a person other than the body to which the document or information relates only if—
  (a) the body has been required to provide the document or information but has failed to do so, or
  (b) the regulator thinks that the body is unable to provide it.

(3) A requirement may specify—
  (a) the form and manner in which a document or information is to be provided (which may include the provision of a legible copy of information stored electronically);
  (b) when and where it is to be provided.

(4) The regulator may copy or record documents or information provided.

(5) Failure to comply with a requirement without reasonable excuse is an offence.

(6) Intentionally altering, suppressing or destroying a document or information to which a requirement relates is an offence.

(7) If a person fails to comply with a requirement the High Court may, on an application by the regulator, make an order for the purpose of remedying the failure.

108 Section 107: supplemental

(1) A requirement does not require a person to disclose anything which the person would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court.

(2) A requirement does not require a banker to breach a duty of confidentiality owed to a person who is not—
  (a) the registered provider to whose affairs or activities the documents or information relates,
  (b) a subsidiary of the registered provider, or
  (c) an associate of the registered provider.

(3) A person guilty of an offence under section 107(5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A person guilty of an offence under section 107(6) is liable—

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(a) on summary conviction, to a fine not exceeding the statutory maximum;
(b) on conviction on indictment, to—
(i) imprisonment for a term not exceeding two years,
(ii) a fine, or
(iii) both.

(5) Proceedings for an offence under section 107(5) or (6) may be brought only by or with the consent of—
(a) the regulator, or
(b) the Director of Public Prosecutions.

(6) An order under section 107(7) may include provision about costs.

109 Disclosure

(1) A public authority may disclose information to the regulator if the authority thinks that the disclosure is necessary for a purpose connected with the regulator's functions.

(2) The regulator may disclose information to a public authority if the regulator thinks that the disclosure is necessary—
(a) for a purpose connected with the regulator's functions, or
(b) for a purpose connected with the authority's functions.

(3) The regulator may disclose information to a person acting on its behalf for a purpose connected with the regulator's functions.

(4) A disclosure may be subject to restrictions on further disclosure.

(5) The power to disclose information under this section is subject to any express restriction on disclosure imposed by another enactment (ignoring any restriction which allows disclosure if authorised by an enactment).

(6) Disclosure in contravention of a restriction under subsection (4) is an offence.

(7) A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) "Public authority" means a person having functions of a public nature (whether or not in the United Kingdom).

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CHAPTER 3

REGISTRATION

VALID FROM 01/04/2010

Introduction

110 Overview

This Chapter provides for the establishment of a register of providers of social housing.

111 The register

(1) The regulator shall maintain a register of providers of social housing.

(2) The regulator shall make the register available for inspection by the public.

Eligibility

112 Eligibility for registration

(1) An English body is eligible for registration if—
- (a) it satisfies the following conditions, and
- (b) it does not fall within the exceptions in section 113.

(2) Condition 1 is that the body—
- (a) is a provider of social housing in England, or
- (b) intends to become a provider of social housing in England.

(3 Condition 2 is that the body satisfies any relevant criteria set by the regulator as to—
- (a) its financial situation,
- (b) its constitution, and
- (c) other arrangements for its management.

(4 Before setting criteria the regulator must consult—
- (a) the HCA,
- (b) one or more bodies appearing to it to represent the interests of registered providers, and
- (c) one or more bodies appearing to it to represent the interests of tenants.

Commencement Information

I111 S. 112(3)(4) in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)** (with art. 3(3)(4))

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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113 Local authority non-registrable bodies

(1) This section sets out the exceptions to section 112(1).

(2) Exception 1 is a local housing authority.

(3) Exception 2 is a county council.

(4) Exception 3 is a person controlled by an authority within Exception 1 or 2.

(5 The Secretary of State may make regulations defining when a person is controlled by an authority for the purpose of Exception 3.

(6 The definition may be expressed by reference to a definition for the time being given in a document identified by regulations under section 21(2)(b) of the Local Government Act 2003 (c. 26) (accounting practices for local authorities).

Commencement Information

I112 S. 113(5)(6) in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

114 Registration of local authorities

(1) The Secretary of State may by order—
- (a) repeal section 113, or
- (b) amend it so as to permit the registration of specified classes of local authority.

(2) The Secretary of State may by order require the regulator to register—
- (a) a specified local authority, or
- (b) a specified class of local authority.

(3) Registration under subsection (2)—
- (a) takes effect in accordance with any provision of the order about timing or other procedural or incidental matters,
- (b) does not require an application for registration, and
- (c) may apply to a local authority whether or not it is eligible for registration by virtue of subsection (1).

(4) If the Secretary of State thinks it necessary or desirable in connection with the registration of local authorities, the Secretary of State may by order—
- (a) provide for a provision of this Part or any other enactment not to apply in relation to registered local authorities;
- (b) provide for a provision of this Part or any other enactment to apply with specified modifications in relation to registered local authorities;
- (c) amend a provision of this Part or any other enactment.

(5) In this section—
- (a) "local authority" means an authority or person to whom section 113 applies or has applied, and
- (b) "registered local authorities" means authorities or persons who are registered, registrable or to be registered as a result of an order under subsection (1) or (2) above.

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(6) Before making an order under this section the Secretary of State shall consult—
- (a) any authority or person likely to be affected by it, and
- (b) such other persons as the Secretary of State thinks fit.

Commencement Information

I113 S. 114 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

VALID FROM 01/04/2010

115 Profit-making and non-profit organisations

(1) Each entry in the register shall designate the body registered as either—
- (a) a non-profit organisation, or
- (b) a profit-making organisation.

(2) A body is a non-profit organisation if it is a registered or non-registrable charity.

(3) A body is also a non-profit organisation if it satisfies the following conditions.

(4) Condition 1 is that the body—
- (a) does not trade for profit, or
- (b) is prohibited by its constitution from issuing capital with interest or dividend at a rate exceeding that prescribed under section 1(1)(b) of the Housing Associations Act 1985 (c. 69).

(5) Condition 2 is that a purpose of the body is the provision or management of housing.

(6) Condition 3 is that any other purposes of the body are connected with or incidental to the provision of housing.

(7) The Secretary of State may make regulations providing that a specified purpose is to be, or not to be, treated as connected with or incidental to the provision of housing.

(8) A body which is not a non-profit organisation under subsection (2) or (3) is a profit-making organisation.

(9) If the regulator thinks that what was a profit-making organisation has become a non-profit organisation, the regulator must change the registered designation accordingly.

Procedure

116 Entry

(1) The regulator shall register anyone who—
- (a) is eligible for registration, and
- (b) applies to be registered.

(2 The regulator may make provision about—
- (a) the form of an application;

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(b) the information to be contained in it or provided with it;
(c) the manner in which an application is to submitted;
(d) the consequences of failure to comply with provision under paragraphs (a) to (c).

(3) This section is subject to section 117 (fees).

(4) Once entered a body remains registered unless and until removed under section 118 or 119.

(5) It shall be presumed for all purposes that a person entered in the register is eligible for registration while the registration lasts (irrespective of whether and why the person is later removed from the register).

Commencement Information
I114 S. 116(2) in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

117 Fees

(1) The regulator may make initial registration conditional upon payment of a fee.

(2) The regulator may make continued registration conditional upon payment of an annual fee.

(3) The regulator shall—
(a) prescribe the amount of a fee, and
(b) make provision about the periods during which and in respect of which annual fees are payable.

(4) The regulator may set different fees, and make different provision, for different cases or circumstances.

(5) Fees must be set in accordance with principles which the regulator prepares and publishes and which are designed to ensure that so far as is reasonably practicable—
(a) fee income matches expenditure on the performance of functions,
(b) each fee is reasonable and proportionate to the costs to which it relates, and
(c) actual or potential registered providers can see the relationship between the amount of a fee and the costs to which it relates.

(6) The principles—
(a) shall provide for section 95(3) to be disregarded for the purpose of subsection (5)(a), and
(b) may provide for specified expenditure or potential expenditure under section 95 or otherwise to be disregarded for the purpose of subsection (5)(a).

(7) Principles do not have effect until approved by the Secretary of State.

(8) In preparing (or revising) the principles the regulator shall consult persons appearing to the regulator to represent the interests of fee-payers.

(9) The regulator's accounts shall show—
(a) fees received, and

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(b) fees outstanding.

Commencement Information

I115 S. 117 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

VALID FROM 01/04/2010

118 De-registration: compulsory

(1) The regulator may remove from the register a body which the regulator thinks—
- (a) is no longer eligible for registration,
- (b) has ceased to carry out activities, or
- (c) has ceased to exist.

(2) Before removing a body under subsection (1)(a) or (b) the regulator must—
- (a) take all reasonable steps to give the body at least 14 days' notice, and
- (b) consider any representations it makes in that period.

(3) After removing a body under subsection (1)(a) or (b) the regulator must take all reasonable steps to notify the body.

119 De-registration: voluntary

(1) A registered provider may ask the regulator to remove it from the register.

(2 The regulator may comply with a request—
- (a) on the grounds that the registered provider no longer is or intends to be a provider of social housing in England,
- (b) on the grounds that the registered provider is subject to regulation by another authority whose control is likely to be sufficient, or
- (c) on the grounds that the registered provider meets any relevant criteria for de-registration set by the regulator.

(3) Before deciding whether or not to comply, the regulator must consult such local authorities in whose area the registered provider acts as it thinks appropriate.

(4) The regulator shall not comply with a request by a non-profit registered provider if it thinks that removal is sought with a view to enabling the registered provider to distribute assets to members.

(5) In deciding whether or not to comply, the regulator must (in particular) have regard to—
- (a) any conditions imposed in connection with disposal consents given to the registered provider under Chapter 5, and
- (b) any conditions imposed in connection with financial assistance given to the registered provider under any enactment.

(6) Having decided whether or not to remove the registered provider the regulator must notify—

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(a) the provider, and
(b) any authority consulted.

(7 The regulator shall publish criteria set for the purposes of subsection (2)(c).

Commencement Information
I116 S. 119(2)(7) in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

VALID FROM 01/04/2010

120 Notice

(1) As soon as is reasonably practicable after registering or de-registering a body the regulator shall notify—
(a) in the case of a registered charity, the Charity Commission,
(b) in the case of an industrial and provident society, the Financial Services Authority, [F9]...
(c) in the case of a registered company (whether or not also a registered charity), the registrar of companies for England and Wales**[**[F10], and
(d) in the case of a local authority, the Secretary of State.**]**

(2) **[**[F11]Except in the case of a local authority,**]** a notice of registration shall specify whether the person registered is designated as a non-profit or profit-making organisation.

(3) If the designation changes, the regulator shall notify any person notified of the registration.

(4) A person to whom notice is given under this section must keep a record of it.

Textual Amendments
F9 Word in s. 120(1)(b) omitted (1.4.2010) by virtue of The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 19(2)(a)**
F10 S. 120(1)(d) and word inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 19(2)(b)**
F11 Words in s. 120(2) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 19(3)**

Commencement Information
I117 S. 120 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

VALID FROM 01/04/2010

121 Appeal

(1) A body may appeal to the High Court against a decision of the regulator—

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(a) to refuse to register it,
(b) to de-register it, or
(c) to refuse to de-register it.

(2) The regulator shall not de-register a body while an appeal is pending.

(3) The Secretary of State may by order provide for the First-tier Tribunal to have jurisdiction under this section instead of the High Court.

CHAPTER 4

REGISTERED PROVIDERS

VALID FROM 01/04/2010

General provisions

122 Payments to members etc.

(1) This section restricts the making of gifts, and the payment of dividends and bonuses, by a non-profit registered provider to—
(a) a member or former member of the registered provider,
(b) a member of the family of a member or former member,
(c) a company which has as a director a person within paragraph (a) or (b).

(2) A gift may be made, and a dividend or bonus may be paid, only if it falls within one of the following permitted classes.

(3) Class 1 is payments which—
(a) are in accordance with the constitution of the registered provider, and
(b) are due as interest on capital lent to the provider or subscribed in its shares.

(4) Class 2 is payments which—
(a) are paid by a fully mutual housing association (within the meaning of section 1(2) of the Housing Associations Act 1985 (c. 69)),
(b) are paid to former members of the association, and
(c) are due under—
(i) tenancy agreements with the association, or
(ii) agreements under which the former members became members of the association.

(5) Class 3 is payments which—
(a) are in accordance with the constitution of the registered provider making the payment ("the payer"), and
(b) are made to a registered provider which is a subsidiary or associate of the payer.

(6) If a registered company or industrial and provident society contravenes this section—
(a) it may recover the wrongful gift or payment as a debt from the recipient, and

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(b) the regulator may require it to take action to recover the gift or payment.

123 Disposal of property

Chapter 5 makes provision about disposal of property **[**[F12]by private registered providers**]**.

Textual Amendments

F12 Words in s. 123 inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 20**

Commencement Information

I118 S. 123 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

124 Complaints

(1) In section 51 of, and Schedule 2 to, the Housing Act 1996 (c. 52) (schemes for investigation of complaints by housing ombudsmen) for "Relevant Authority", wherever appearing, substitute " Regulator of Social Housing ".

(2) In section 51 of that Act—

(a) for subsection (2)(a) substitute—

"(a) a registered provider of social housing,",

(b) in subsection (2)(d) after "registered with" insert " the Regulator of Social Housing or ", and

(c) at the end add—

"(7) Section 52 shall apply to an order under subsection (4) (with any necessary modifications)."

(3) In paragraph 6(2) of Schedule 2 to that Act (grants) for "Housing Corporation", in both places, substitute " Regulator of Social Housing ".

(4) In paragraph 11(4) of Schedule 2 to that Act, omit—

(a) "or the Housing Corporation", and

(b) "or, as the case may be, the Housing Corporation".

(5) At the end of Schedule 2 to that Act add—

"**General provision about orders**

12 Section 52 shall apply to an order of the Secretary of State under this Schedule (with any necessary modifications)."

125 Voluntary undertaking

(1) A registered provider may give the regulator an undertaking in respect of any matter concerning social housing.

(2) The regulator may prescribe a procedure to be followed in giving an undertaking.

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(3) In exercising a power under Chapter 6 or 7 the regulator must have regard to any undertaking offered or given.

(4) The regulator may found a decision about whether to exercise a power under Chapter 6 or 7 wholly or partly on the extent to which an undertaking has been honoured.

126 Sustainable community strategies

If invited by a local authority to participate in the preparation or modification of a sustainable community strategy under section 4 of the Local Government Act 2000 (c. 22), a registered provider must co-operate with the local authority.

Accounts

127 Directions

(1) The regulator may give directions to registered providers about the preparation of their accounts.

(2) A direction may be given to a profit-making registered provider only in so far as its accounts relate to social housing activities.

(3) The power must be exercised with a view to ensuring that accounts—
- (a) are prepared in proper form, and
- (b) present a true and fair view of—
  - (i) the state of affairs of each registered provider in relation to its social housing activities, and
  - (ii) the disposition of funds and assets which are, or have been, in its hands in connection with those activities.

(4) A direction may require a registered charity to use a specified method for distinguishing in its accounts between—
- (a) matters relating to its social housing activities, and
- (b) other matters.

(5) A direction—
- (a) may make provision that applies generally or only to specified cases, circumstances or registered providers, and
- (b) may make different provision for different cases, circumstances or registered providers.

(6 A direction that relates to more than one registered provider may be given only after consulting one or more bodies appearing to the regulator to represent the interests of registered providers.

(7) The regulator shall make arrangements for bringing a direction to the attention of every registered provider to which it applies.

Commencement Information

I119 S. 127(6) in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)** (with art. 3(3)(4))

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/04/2010

128 Submission to regulator

(1) Each registered provider shall send a copy of its accounts to the regulator within the period of 6 months beginning with the end of the period to which the accounts relate.

(2) The accounts must be accompanied by—
  (a) an auditor's report, or
  (b) in the case of accounts that by virtue of an enactment are not subject to audit, any report that is required to be prepared in respect of the accounts by virtue of an enactment.

(3) The report must specify whether the accounts comply with any relevant directions under section 127.

VALID FROM 01/04/2010

129 Companies exempt from audit

(1) This section applies in relation to a registered provider which—
  (a) is a registered company other than a charity, and
  (b) is exempt from the audit requirements of the Companies Act 2006 (c. 46) by virtue of section 477 of that Act (small companies' exemption).

(2) The directors of the company shall cause a report to be prepared in accordance with section 130 and made to the company's members in respect of the company's individual accounts for any year in which the company takes advantage of its exemption from audit.

(3) "Individual accounts" has the same meaning as in section 396 of the Companies Act 2006.

VALID FROM 01/04/2010

130 Exempt companies: accountant's report

(1) The report required by section 129 must be prepared by a person ("the reporting accountant") who is eligible under section 131.

(2) The report must state whether the individual accounts are in accordance with the company's accounting records kept under section 386 of the Companies Act 2006.

(3) On the basis of the information contained in the accounting records the report must also state whether—
  (a) the accounts comply with Part 15 of the Companies Act 2006;
  (b) the company is entitled to exemption from audit under section 477 of that Act (small companies' exemption) for the year in question.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) The report must give the name of the reporting accountant and be signed and dated.

(5) The report must be signed—

(a) where the reporting accountant is an individual, by that individual, and

(b) where the reporting accountant is a firm, for and on behalf of the firm by an individual authorised to do so.

(6) In this section and sections 131 and 132 "firm" has the meaning given by section 1173(1) of the Companies Act 2006.

131 Exempt companies: reporting accountant

(1) A person is eligible for appointment by a company as a reporting accountant under section 130 if—

(a) either of the following conditions is satisfied, and

(b) the person would not be prohibited from acting as auditor of the company by virtue of section 1214 of the Companies Act 2006 (c. 46).

(2) Condition 1 is satisfied if the person is a member of a body listed in subsection (4) and under its rules—

(a) the person is entitled to engage in public practice, and

(b) is not ineligible for appointment as a reporting accountant.

(3) Condition 2 is satisfied if the person—

(a) is subject to the rules of a body listed in subsection (4) in seeking appointment or acting as a statutory auditor under Part 42 of the Companies Act 2006, and

(b) under those rules, is eligible for appointment as a statutory auditor under that Part.

(4) The bodies mentioned in subsections (2) and (3) are—

(a) the Institute of Chartered Accountants in England and Wales,

(b) the Institute of Chartered Accountants of Scotland,

(c) the Institute of Chartered Accountants in Ireland,

(d) the Association of Chartered Certified Accountants,

(e) the Association of Authorised Public Accountants,

(f) the Association of Accounting Technicians,

(g) the Association of International Accountants,

(h) the Chartered Institute of Management Accountants, and

(i) the Institute of Chartered Secretaries and Administrators.

(5 The Secretary of State may by order amend the list of bodies in subsection (4).

(6) References in this section to the rules of a body are to rules (whether or not laid down by the body itself) which the body has power to enforce and which are relevant for the purposes of Part 42 of the Companies Act 2006 (statutory auditors) or this section; and this includes rules relating to the admission and expulsion of members of the body so far as relevant for the purposes of that Part or this section.

(7) An individual or a firm may be appointed as a reporting accountant; and section 1216 of the Companies Act 2006 applies to the appointment of a partnership constituted under the law of—

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(a) England and Wales,
(b) Northern Ireland, or
(c) any other country or territory in which a partnership is not a legal person.

Commencement Information
I120 S. 131(5) in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

VALID FROM 01/04/2010

132 Application of Companies Act

(1) The provisions of the Companies Act 2006 listed in subsection (2) apply to the reporting accountant and a reporting accountant's report as they apply to an auditor of the company and an auditor's report on the company's accounts (with any necessary modifications).

(2) The provisions are—
(a) sections 423 to 425 (duty to circulate copies of annual accounts),
(b) sections 431 and 432 (right of member or debenture holder to demand copies of accounts),
(c) sections 434 to 436 (requirements in connection with publication of accounts),
(d) sections 441 to 444A (duty to file accounts with registrar of companies),
(e) section 454(4)(b) and regulations made under that provision (functions of auditor in relation to revised accounts),
(f) sections 499 to 502 (auditor's right to information), and
(g) sections 505 and 506 (name of auditor to be stated in published copies of report).

(3) In sections 505 and 506 as they apply by virtue of this section in a case where the reporting accountant is a firm, any reference to the senior statutory auditor shall be read as a reference to the person who signed the report on behalf of the firm.

VALID FROM 01/04/2010

133 Exempt companies: extraordinary audit

(1) This section applies where, in accordance with section 129, a company appoints a reporting accountant to prepare a report in respect of its accounts for any year.

(2) The regulator may require the company to—
(a) cause a qualified auditor to audit its accounts and balance sheet for that year, and
(b) send a copy of the report to the regulator by a specified date.

(3) A requirement may not be imposed before the end of the financial year to which it relates.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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(4) "Qualified auditor", in relation to a company, means a person who—

(a) is eligible for appointment as a statutory auditor of the company under Part 42 of the Companies Act 2006 (c. 46) (statutory auditors), and

(b) is not prohibited from acting as statutory auditor of the company by virtue of section 1214 of that Act (independence requirement).

VALID FROM 01/04/2010

134 Non-audited industrial and provident society

(1) This section applies to a registered provider which is an industrial and provident society.

(2) Section 9A of the Friendly and Industrial and Provident Societies Act 1968 (c. 55) applies to the society as if subsection (1)(b) were omitted (accountant's report required only where turnover exceeds specified sum).

(3) The regulator may require the society to—

(a) appoint a qualified auditor to audit the society's accounts and balance sheet for any year of account in respect of which section 4 of the Friendly and Industrial and Provident Societies Act 1968 (audit requirements) has been disapplied (see section 4A of that Act), and

(b) send a copy of the auditor's report to the regulator by a specified date.

(4) A requirement under subsection (3) may be imposed only during the year of account following the year to which the accounts relate.

(5) In this section—

"qualified auditor" means a person who is a qualified auditor for the purposes of Friendly and Industrial and Provident Societies Act 1968 (c. 55), and

"year of account" has the meaning given by section 21(1) of that Act.

VALID FROM 01/04/2010

135 Charity

(1) This section applies to a non-profit registered provider which is a registered charity.

(2) The charity shall—

(a) keep proper accounting records of its transactions and its assets and liabilities in relation to its housing activities, and

(b) maintain a satisfactory system of control of those records, its cash holdings and its receipts and remittances in relation to those activities.

(3) For each period of account the charity shall prepare—

(a) a revenue account giving a true and fair view of the charity's income and expenditure during the period, so far as relating to its housing activities, and

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(b) a balance sheet giving a true and fair view of the state of affairs of the charity as at the end of the period.

(4) The revenue account and balance sheet must be signed by at least two directors or trustees.

(5) "Period of account" means—

(a) a period of 12 months, or

(b) such other period not less than 6 months nor more than 18 as the charity may, with the consent of the regulator, determine.

(6) This section does not affect any obligation under sections 41 to 45 of the Charities Act 1993 (c. 10) (charity accounts).

VALID FROM 01/04/2010

136 Charity: audit

(1) This section applies in relation to the accounts of a charity under section 135(3).

(2) If Condition 1 or 2 is met, the charity shall cause a qualified person to audit the accounts and report on them in accordance with section 137.

(3) If neither Condition is met, the charity shall cause a qualified person ("the reporting accountant") to report on the accounts in accordance with section 138.

(4) Condition 1 is met if the accounts relate to a period during which the charity's gross income arising in connection with its housing activities was greater than the sum specified in section 43(1)(a) of the Charities Act 1993.

(5) Condition 2 is met if—

(a) the accounts relate to a period during which the charity's gross income arising in connection with its housing activities was greater than the accounts threshold as defined by section 43(1) of the Charities Act 1993, and

(b) at the end of the period the aggregate value of its assets (before deduction of liabilities) in respect of its housing activities was greater than the sum specified in section 43(1)(b).

(6) "Gross income" has the same meaning as in section 43 of the Charities Act 1993 (c. 10).

(7) "Qualified person" means a person professionally qualified as an accountant.

VALID FROM 01/04/2010

137 Charity: auditor's report

(1) An auditor appointed for the purposes of section 136(2) or 139(2) in respect of a charity's accounts shall make a report to the charity in accordance with this section.

(2) The report must state—

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(a) whether the revenue account gives a true and fair view of the charity's income and expenditure, so far as relating to its housing activities, and

(b) whether the balance sheet gives a true and fair view of the state of affairs of the charity as at the end of the period to which the accounts relate.

(3) The report must give the name of the auditor and be signed.

(4) The auditor shall, in preparing the report, carry out such investigations as are necessary to form an opinion as to—

(a) whether the charity has complied with section 135(2) during the period to which the accounts relate, and

(b) whether the accounts are in accordance with accounting records kept under section 135(2)(a).

(5) If the auditor thinks that the charity has not complied section 135(2) or that the accounts are not in accordance with its accounting records, that must be stated in the report.

(6) If the auditor fails to obtain all the information and explanations which the auditor thinks necessary for the purposes of the audit, that must be stated in the report.

VALID FROM 01/04/2010

138 Charity: accountant's report

(1) A reporting accountant appointed for the purposes of section 136(3) in respect of a charity's accounts shall make a report to the charity in accordance with this section.

(2) The report must state whether the accounts are in accordance with accounting records kept under section 135(2)(a).

(3) On the basis of the information in the accounting records the report must also state whether—

(a) the accounts comply with the requirements of the Charities Act 1993;

(b) section 136(3) applied in respect of the accounts.

(4) The report must give the name of the reporting accountant and be signed.

(5) If the reporting accountant fails to obtain all the information and explanations which the reporting accountant thinks necessary for the purposes of preparing the report, that must be stated in the report.

VALID FROM 01/04/2010

139 Charity: extraordinary audit

(1) This section applies where, in accordance with section 136(3), a charity appoints a reporting accountant to prepare a report in respect of any accounts.

(2) The regulator may require the charity to—

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(a) cause a qualified person to audit the accounts and prepare a report on them in accordance with section 137, and
(b) send a copy of the report to the regulator by a specified date.

(3) A requirement under subsection (2) may be imposed only during the period of account following the period to which the accounts relate.

(4) In this section—
"period of account" has the meaning given by section 135(5), and
"qualified person" has the meaning given by section 136(7).

VALID FROM 01/04/2010

140 Charity: auditor's powers

(1) This section applies to a person who is appointed by a charity for the purposes of section 136(2) or (3) or 139(2).

(2) The charity must grant the person access to its documents, if or in so far as they relate to its housing activities.

(3) An officer of the charity must provide such information or explanations as the person thinks necessary.

VALID FROM 01/04/2010

141 Offences

(1) A registered provider commits an offence if it fails, without reasonable excuse, to comply with—
(a) a direction under section 127,
(b) a provision listed in subsection (2), or
(c) a requirement imposed under a provision listed in subsection (3).

(2) The provisions referred to in subsection (1)(b) are—
(a) section 128;
(b) section 129;
(c) section 135;
(d) section 136.

(3) The provisions referred to in subsection (1)(c) are—
(a) section 133;
(b) section 134;
(c) section 139.

(4) If a registered provider fails to comply with a direction, provision or requirement mentioned in subsection (1) every officer of the registered provider is guilty of an offence.

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(5) It is a defence for an officer to show that the officer did everything that could reasonably have been expected to ensure compliance by the registered provider.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) Proceedings for an offence may be brought only by or with the consent of—
  (a) the regulator, or
  (b) the Director of Public Prosecutions.

VALID FROM 01/04/2010

142 High Court

(1) If a registered provider fails to comply with a direction, provision or requirement mentioned in section 141(1), the High Court may on the application of the regulator make an order for the purpose of remedying the failure.

(2) An order may include provision about costs.

VALID FROM 01/04/2010

143 Disclosure

(1) This section applies to information that a person has received while acting—
  (a) as auditor of a registered provider, or
  (b) as a reporting accountant in relation to a registered provider.

(2) The person may disclose the information to the regulator for a purpose connected with the regulator's functions—
  (a) despite any duty of confidentiality, and
  (b) whether or not the regulator requests the information.

(3) The reference to disclosing information includes expressing an opinion on it.

(4) "Reporting accountant" means a person who is appointed to prepare a report which, by virtue of any enactment, has to be prepared in respect of accounts that are not subject to audit.

Insolvency etc.

144 Preparatory steps: notice

A step specified in the Table has effect only if the person specified has given the regulator notice.

Step	***Person to give notice***

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Any step, of a kind prescribed for the purposes of this section by the Secretary of State by order, to enforce a security over land held by a registered provider	The person taking the step
Presenting a petition for the winding up of a registered provider which is— (a) a registered company, or (b) an industrial and provident society But not the presenting of a petition by the regulator under section 166	The petitioner
Passing a resolution for the winding up of a registered provider which is— (a) a registered company, or (b) an industrial and provident society But not the passing of a resolution for winding-up where the regulator's consent is required under section 162 or 164	The registered provider
Making an administration application in accordance with paragraph 12 of Schedule B1 to the Insolvency Act 1986 in respect of a registered provider which is a registered company	The applicant
Appointing an administrator under paragraph 14 or 22 of that Schedule in respect of a registered provider which is a registered company	The person making the appointment
Filing with the court a copy of a notice of intention to appoint a person under either of those paragraphs in respect of a registered provider which is a registered company	The person filing the notice

Commencement Information

I121 S. 144 in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 7(b)**

145 Moratorium

(1) If a step specified in the Table below is taken in respect of a registered provider, a moratorium on the disposal of land by the provider begins.

(2) Where a step specified in the Table is taken in respect of a registered provider, the person specified must give the regulator notice as soon as is reasonably practicable.

(3) If the notice is not given the step is not invalidated (but the end of the moratorium depends on the notice being given — see section 146(2)).

(4) The regulator shall give the HCA a copy of any notice received under this section.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Step	***Person***
Any step, of a kind prescribed for the purposes of this section by the Secretary of State by order, to enforce a security over land held by a registered provider	The person taking the step
The presenting of a petition for winding up a registered provider which is— (a) a registered company, or (b) an industrial and provident society But not the presenting of a petition by the directors or other governing body of the registered provider or by the regulator under section 166	The petitioner
The passing of a resolution for the winding up of a registered provider which is— (a) a registered company, or (b) an industrial and provident society	The registered provider
A decision by the directors or other governing body of a registered provider to present a petition for winding up where the registered provider is— (a) a registered company, or (b) an industrial and provident society	The directors or governing body
The making of an administration order in accordance with paragraph 13 of Schedule B1 to the Insolvency Act 1986 in respect of a registered provider which is a registered company	The person who applied for the order
The appointment of an administrator under paragraph 14 or 22 of that Schedule in respect of a registered provider which is a registered company	The person making the appointment

Commencement Information

I122 S. 145(4) in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 7(b)**

VALID FROM 01/04/2010

146 Duration of moratorium

(1) The moratorium begins when the step specified in section 145 is taken.

(2) The moratorium ends (unless extended or cancelled) with the period of 28 working days beginning with the day on which the regulator receives notice under section 145(2).

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) During a moratorium the regulator may extend it (or further extend it) for a specified period, with the consent of each secured creditor of the registered provider whom the regulator is able to locate after making reasonable enquiries.

(4) If the regulator extends a moratorium it shall notify—
- (a) the registered provider,
- (b) any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or its land, and
- (c) the HCA.

(5) During a moratorium the regulator may cancel it if satisfied that it is unnecessary to make proposals under section 152.

(6) Before cancelling a moratorium the regulator must consult the person who took the step that triggered it.

(7) When a moratorium ends the regulator shall give notice, and (except in the case of cancellation) an explanation of section 147, to—
- (a) the registered provider, and
- (b) such of its secured creditors as the regulator is able to locate after making reasonable enquiries.

(8) When a moratorium ends the regulator shall also give notice to the HCA.

(9) Taking a further step during a moratorium does not—
- (a) start a new moratorium, or
- (b) alter the existing moratorium's duration.

VALID FROM 01/04/2010

147 Further moratorium

(1) This section applies if—
- (a) a moratorium in respect of a registered provider ends otherwise than by cancellation, and
- (b) a further step specified in section 145 is taken in relation to the provider within the period of 3 years beginning with the end of the moratorium.

(2) The further step does not automatically trigger a further moratorium.

(3) But the regulator may impose a further moratorium for a specified period, if each secured creditor of the registered provider whom the regulator is able to locate after making reasonable enquiries consents.

(4) If the regulator imposes a new moratorium it shall notify—
- (a) the registered provider,
- (b) any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or any of its land, and
- (c) the HCA.

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(5) This group of sections applies to a further moratorium as to a first moratorium (except for section 146(2)).

VALID FROM 01/04/2010

148 Effect of moratorium

(1) During a moratorium the HCA—
  (a) may not give the registered provider a direction under section 32(4), and
  (b) may not take steps to enforce such a direction against the registered provider.

(2) During a moratorium a disposal of the registered provider's land requires the regulator's prior consent.

(3) Section 149 sets out exceptions to subsection (2).

(4) Consent—
  (a) may be given before the moratorium begins, and
  (b) may be subject to conditions.

(5) This section does not prevent a liquidator from disclaiming land as onerous property during a moratorium.

(6) In this section "land" includes a present or future interest in rent or other receipts arising from land.

VALID FROM 01/04/2010

149 Exempted disposals

(1) The regulator's consent is not required under section 148 for the following exceptions.

(2) Exception 1 is a letting under—
  (a) an assured tenancy, or
  (b) an assured agricultural occupancy.

(3) Exception 2 is a letting under what would be an assured tenancy or an assured agricultural occupancy but for any of paragraphs 4 to 8, 12(1)(h) and 12ZA to 12B of Schedule 1 to the Housing Act 1988 (c. 50) (tenancies which cannot be assured tenancies).

(4) Exception 3 is a letting under a secure tenancy.

(5) Exception 4 is a letting under what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 to the Housing Act 1985 (c. 68) (tenancies which are not secure tenancies).

(6) Exception 5 is a disposal for which consent is required under—
  (a) section 81 or 133 of the Housing Act 1988 (c. 50), or

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(b) section 173 of the Local Government and Housing Act 1989 (c. 42).

(7) Exception 6 is a disposal under Part V of the Housing Act 1985 (right to buy).

(8) Exception 7 is a disposal under the right conferred by—
(a) section 180, or
(b) section 16 of the Housing Act 1996 (c. 52) (tenant's right to acquire social housing in Wales).

VALID FROM 01/04/2010

150 Disposals without consent

(1) A purported disposal by a registered provider is void if—
(a) it requires the regulator's consent under section 148, and
(b) the regulator has not given consent.

(2) But subsection (1) does not apply to a disposal by a non-profit registered provider to one or more individuals ("the buyer") if—
(a) the disposal is of a single dwelling, and
(b) the registered provider reasonably believes at the time of the disposal that the buyer intends to use the property as the buyer's principal residence.

VALID FROM 01/04/2010

151 Interim manager

(1) During a moratorium the regulator may appoint an interim manager of the registered provider.

(2) An appointment may relate to the registered provider's affairs generally or to affairs specified in the appointment.

(3) Appointment shall be on terms and conditions (including as to remuneration) specified in, or determined in accordance with, the appointment.

(4) An appointment under this section shall come to an end with the earliest of the following—
(a) the end of the moratorium,
(b) the agreement of proposals under section 152, or
(c) a date specified in the appointment.

(5) An interim manager shall have—
(a) any power specified in the appointment, and
(b) any other power in relation to the registered provider's affairs required by the manager for the purposes specified in the appointment (including the power to enter into agreements and take other action on behalf of the registered provider).

(6) But an interim manager may not—

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(a) dispose of land, or
(b) grant security over land.

VALID FROM 01/04/2010

152 Proposals

(1) During a moratorium the regulator may make proposals about the future ownership and management of the registered provider's land, with a view to ensuring that the property will be properly managed by a registered provider.

(2) In making proposals the regulator shall—
(a) have regard to the interests of the registered provider's creditors as a whole, and
(b) so far as is reasonably practicable avoid worsening the position of unsecured creditors.

(3) Proposals may provide for the appointment of a manager in accordance with section 155 to implement all or part of the proposals.

(4) Proposals may not include anything which would result in—
(a) a preferential debt being paid otherwise than in priority to a non-preferential debt, or
(b) a preferential creditor (PC1) being paid a smaller proportion of a preferential debt than another preferential creditor (PC2) (unless PC1 consents).

(5) Proposals relating to a registered provider which is a charity (C1)—
(a) may not require it to act outside the terms of its trusts, and
(b) may provide for the disposal of accommodation only to another charity whose objects the regulator thinks are similar to those of C1.

VALID FROM 01/04/2010

153 Proposals: procedure

(1) Before making proposals the regulator shall consult—
(a) the registered provider,
(b) its tenants (so far as is reasonably practicable),
(c) if the registered provider is an industrial and provident society, the Financial Services Authority, and
(d) if the registered provider is a registered charity, the Charity Commission.

(2) The regulator shall send a copy of proposals to—
(a) the registered provider and its officers,
(b) such of its secured creditors as the regulator is able to locate after making reasonable enquiries, and
(c) any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or any of its land.

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(3) The regulator shall also make arrangements for bringing proposals to the attention of—
- (a) the registered provider's members,
- (b) its tenants, and
- (c) its unsecured creditors.

(4) If each secured creditor to whom proposals were sent agrees to the proposals by notice to the regulator, the proposals have effect.

(5) Proposals may be agreed with modifications if—
- (a) each secured creditor to whom the proposals were sent consents by notice to the regulator, and
- (b) the regulator consents.

(6) The regulator shall send a copy of agreed proposals to—
- (a) the registered provider and its officers,
- (b) its secured creditors to whom the original proposals were sent,
- (c) any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or any of its land,
- (d) if the registered provider is an industrial and provident society, the Financial Services Authority, and
- (e) if the registered provider is a registered charity, the Charity Commission.

(7) The regulator shall also make arrangements for bringing agreed proposals to the attention of—
- (a) the registered provider's members,
- (b) its tenants, and
- (c) its unsecured creditors.

(8) Proposals may be amended by agreement between the secured creditors to whom the original proposals were sent and the regulator; and this section and section 152 apply to an amendment as to the original proposals.

VALID FROM 01/04/2010

154 Proposals: effect

(1) The following are obliged to implement agreed proposals—
- (a) the regulator,
- (b) the registered provider,
- (c) its creditors, and
- (d) any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or any of its land.

(2) The following shall co-operate with implementation of agreed proposals—
- (a) in the case of a charitable trust, its trustees,
- (b) in the case of an industrial and provident society, its committee members, and
- (c) in the case of a registered company, its directors.

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(3) Subsection (2) does not require or permit a breach of a fiduciary or other duty.

VALID FROM 01/04/2010

155 Manager: appointment

(1) This section applies where agreed proposals provide for the appointment of a manager.

(2) The proposals must provide for the manager to be paid reasonable remuneration and expenses.

(3) The regulator shall appoint a manager.

(4) The regulator may give the manager directions (general or specific).

(5) The manager may apply to the High Court for directions (and directions of the regulator are subject to directions of the High Court).

(6) If the registered provider is a charity, the regulator must notify the Charity Commission that a manager has been appointed.

(7) The regulator may appoint a new manager in place of a person who ceases to be manager (in accordance with terms of appointment specified in the proposals or determined by the regulator).

VALID FROM 01/04/2010

156 Manager: powers

(1) A manager—
- (a) may do anything necessary for the purpose of the appointment,
- (b) acts as the registered provider's agent (and is not personally liable on a contract), and
- (c) has ostensible authority to act for the registered provider (so that a person dealing with the manager in good faith and for value need not inquire into the manager's powers).

(2) In particular, the terms of a manager's appointment may confer power—
- (a) to sell or otherwise dispose of land by public auction or private contract;
- (b) to raise or borrow money;
- (c) to grant security over land;
- (d) to grant or accept surrender of a lease;
- (e) to take a lease;
- (f) to take possession of property;
- (g) to appoint a solicitor, accountant or other professional to assist the manager;
- (h) to appoint agents and staff (and to dismiss them);
- (i) to make payments;
- (j) to bring or defend legal proceedings;

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(k) to refer a question to arbitration;
(l) to make any arrangement or compromise;
(m) to carry on the business of the registered provider;
(n) to carry out works and do other things in connection with the management or transfer of land;
(o) to take out insurance;
(p) to use the registered body's seal;
(q) to execute in the name and on behalf of the registered provider any deed, receipt or other document;
(r) to do anything incidental to a power in paragraphs (a) to (q).

(3) A manager shall so far as is reasonably practicable consult and inform the registered provider's tenants about an exercise of powers likely to affect them.

VALID FROM 01/04/2010

157 Manager of industrial and provident society: extra powers

(1) This section applies to a manager appointed to implement proposals relating to an industrial and provident society.

(2) The appointment may confer on the manager power to make and execute on behalf of the society—
(a) an instrument providing for the amalgamation of the society with another industrial and provident society, or
(b) an instrument transferring its engagements.

(3) An instrument providing for the amalgamation of a society ("S1") with another has the same effect as a resolution by S1 under section 50 of the Industrial and Provident Societies Act 1965 (c. 12) (amalgamation of societies by special resolution).

(4) An instrument transferring engagements has the same effect as a transfer of engagements under sections 51 and 52 of the Industrial and Provident Societies Act 1965 (transfer by special resolution to another society or company).

(5) A copy of the instrument shall 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.

VALID FROM 01/04/2010

158 Assistance by regulator

(1) The regulator may give financial or other assistance to a registered provider for the purpose of preserving its position pending the agreement of proposals.

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(2) The regulator may give financial or other assistance to a registered provider, or a manager appointed under section 155, to facilitate the implementation of agreed proposals.

(3) In particular, the regulator may—
- (a) lend staff;
- (b) arrange payment of the manager's remuneration and expenses.

(4) The regulator may do the following only with the Secretary of State's consent—
- (a) make grants,
- (b) make loans,
- (c) indemnify a manager,
- (d) make payments in connection with secured loans, and
- (e) guarantee payments in connection with secured loans.

VALID FROM 01/04/2010

159 Applications to court

(1) A registered provider may apply to the High Court where the registered provider thinks that action taken by a manager is not in accordance with the agreed proposals.

(2) A creditor of a registered provider may apply to the High Court where the creditor thinks that action taken by a manager is not in accordance with the agreed proposals.

(3) The High Court may—
- (a) confirm, annul or modify an act of the manager;
- (b) give the manager directions;
- (c) make any other order.

(4) If a person bound by agreed proposals (P1) thinks that action by another person (P2) breaches section 154, P1 may apply to the High Court.

(5) The High Court may—
- (a) confirm, annul or modify the action;
- (b) grant relief by way of injunction, damages or otherwise.

VALID FROM 01/04/2010

Restructuring and dissolution

160 Company: arrangements and reconstructions

(1) This section applies to a non-profit registered provider which is a registered company.

(2) A voluntary arrangement under Part 1 of the Insolvency Act 1986 (c. 45) in relation to the company is effective only if the regulator has first consented.

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(3) An order under section 899 of the Companies Act 2006 (c. 46) (court sanction for compromise or arrangement)—
  (a) is effective only if the regulator has first consented, and
  (b) does not take effect until a copy of the consent is delivered to the registrar of companies.

(4) An order under section 900 of the Companies Act 2006 (powers of court to facilitate reconstruction or amalgamation) is effective only if the regulator has first consented.

(5) The requirement in section 900(6) of the Companies Act 2006 (sending copy of order to registrar) is satisfied only if the copy is accompanied by a copy of the regulator's consent.

161 Company: conversion into industrial and provident society

(1) This section applies to a non-profit registered provider which is a registered company.

(2) The registrar of companies may register a resolution under section 53 of the Industrial and Provident Societies Act 1965 (c. 12) for converting the company into an industrial and provident society only if—
  (a) the regulator has consented to the resolution, and
  (b) a copy of the consent accompanies the resolution as sent to the registrar.

(3) The regulator shall register the body created by the conversion and designate it as a non-profit organisation.

(4) Pending registration the body shall be treated as if it were registered and designated as a non-profit organisation.

162 Company: winding up

(1) This section applies to a non-profit registered provider which is a registered company.

(2) A special resolution for the voluntary winding-up of the company under the Insolvency Act 1986 (c. 45) is effective only if the regulator has first consented.

(3) The requirement under section 30 of the Companies Act 2006 (c. 46) (sending copy of resolution to registrar) is satisfied only if the copy is accompanied by a copy of the regulator's consent.

163 Industrial and provident society: restructuring

(1) This section applies to a non-profit registered provider which is an industrial and provident society.

(2) The Financial Services Authority may register a resolution passed by the society for the purposes of restructuring provisions listed in subsection (3) only if—
  (a) the regulator has consented to the resolution, and
  (b) a copy of the consent accompanies the resolution as sent to the Authority.

(3) The following provisions of the Industrial and Provident Societies Act 1965 (c. 12) are the restructuring provisions—
  (a) section 50 (amalgamation of societies),

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(b) section 51 (transfer of engagements between societies), and

(c) section 52 of that Act (conversion into or amalgamation with registered company).

(4) Where a resolution is registered in accordance with subsection (2), any body created or to whom engagements are transferred—

(a) must be registered by the regulator and designated as a non-profit organisation, and

(b) pending registration shall be treated as registered and designated as a non-profit organisation.

164 Industrial and provident society: winding up

(1) This section applies to a non-profit registered provider which is an industrial and provident society.

(2) A resolution for the voluntary winding-up of the society under the Insolvency Act 1986 is effective only if the regulator has first consented.

(3) The requirement in section 30 of the Companies Act 2006 (c. 46) (as applied by section 55 of the Industrial and Provident Societies Act 1965 and section 84(3) of the Insolvency Act 1986) (sending copy of resolution to FSA) is satisfied only if the copy is accompanied by a copy of the regulator's consent.

165 Industrial and provident society: dissolution

(1) This section applies to a non-profit registered provider which is—

(a) an industrial and provident society, and

(b) to be dissolved by instrument of dissolution in accordance with section 58 of the Industrial and Provident Societies Act 1965.

(2) The Financial Services Authority may register the instrument under section 58(5), or cause notice of the dissolution to be advertised under section 58(6), only if—

(a) the regulator has consented to the dissolution, and

(b) a copy of the consent accompanies the instrument as sent to the Authority.

166 Winding up petition by regulator

(1) This section applies to a non-profit registered provider which is—

(a) a registered company, or

(b) an industrial and provident society.

(2) The regulator may present a petition for the registered provider to be wound up under the Insolvency Act 1986 (c. 45) on any of the following grounds.

(3) Ground 1 is that the registered provider is failing properly to carry out its objects.

(4) Ground 2 is that the registered provider is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986.

(5) Ground 3 is that the regulator has directed the registered provider under section 253 to transfer all its land to another person.

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167 Transfer of property

(1) This section applies—
- (a) where a non-profit registered provider which is an industrial and provident society is dissolved in accordance with section 55(a) or (b) of the Industrial and Provident Societies Act 1965 (c. 12), and
- (b) where a non-profit registered provider which is a registered company is wound up under the Insolvency Act 1986.

(2) Any surplus property that is available after satisfying the registered provider's liabilities shall be transferred—
- (a) to the regulator, or
- (b) if the regulator directs, to a specified non-profit registered provider.

(3) If land belonging to the registered provider needs to be sold to satisfy its liabilities, the regulator may discharge those liabilities so as to ensure that the land is instead transferred in accordance with subsection (2).

(4) Where the registered provider dissolved or wound up is a charity, a registered provider may be specified under subsection (2)(b) only if it is a charity whose objects the regulator thinks are similar to those of the original charity.

(5) This section has effect despite anything in—
- (a) the Industrial and Provident Societies Act 1965,
- (b) the Insolvency Act 1986,
- (c) the Companies Act 2006 (c. 46), or
- (d) the constitution of a registered provider.

168 Section 167: supplemental

(1) This section applies to property transferred to the regulator in accordance with section 167(2)(a).

(2) The regulator may dispose of the property only to a non-profit registered provider.

(3) Where the registered provider wound up or dissolved was a charity, the regulator may dispose of the property only to a registered provider—
- (a) which is a charity, and
- (b) whose objects the regulator thinks are similar to those of the original charity.

(4) If the property includes land subject to a mortgage or charge, the regulator may dispose of the land—
- (a) subject to that mortgage or charge, or
- (b) subject to a new mortgage or charge in favour of the regulator.

169 Extension of sections 167 and 168

The Secretary of State may by regulations provide for sections 167 and 168 to apply in relation to a registered provider which is a charity but not a registered company—
- (a) in specified circumstances, and
- (b) with specified modifications.

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CHAPTER 5

DISPOSAL OF PROPERTY

VALID FROM 01/04/2010

Introductory

170 Overview

This Chapter makes provision about the disposal of property by registered providers.

171 Power to dispose

(1) A **[**[F13]private registered provider**]** may dispose of land.

(2) But a non-profit registered provider may dispose of the landlord's interest under a secure tenancy only to another non-profit registered provider **[**[F14]or to a local authority which is a registered provider**]**.

(3) Subsection (1) is subject to the following provisions of this Chapter (which include provisions requiring the regulator's consent for certain disposals).

Textual Amendments

F13 Words in s. 171(1) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 36(a)**

F14 Words in s. 171(2) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 36(b)**

Commencement Information

I123 S. 171 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

Regulator's consent

VALID FROM 01/04/2010

172 Requirement of consent

(1) Disposal of a dwelling by a registered provider requires the regulator's consent if the dwelling is social housing.

(2) The regulator shall not consent to a disposal by a non-profit registered provider which it thinks is being made with a view to enabling the provider to distribute assets to members.

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(3) Consent is not required under this section if the disposal falls within an exception listed in section 173.

VALID FROM 01/04/2010

173 Exceptions

(1) This section lists exceptions to the requirement of consent in section 172.

(2) Exception 1 is that consent is not required for disposal by a registered provider by way of—
- (a) an assured tenancy,
- (b) an assured agricultural occupancy,
- (c) an arrangement that would be an assured tenancy or an assured agricultural occupancy but for any of paragraphs 4 to 8, 12(1)(h) and 12ZA to 12B of Schedule 1 to the Housing Act 1988 (c. 50) (exclusions),
- (d) a secure tenancy, or
- (e) an arrangement that would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 to the Housing Act 1985 (c. 68) (exclusions).

(3) Exception 2 is that consent is not required for a disposal for which consent is required under—
- (a) section 81 or 133 of the Housing Act 1988, or
- (b) section 173 of the Local Government and Housing Act 1989 (c. 42).

(4) Exception 3 is that consent is not required for a disposal under Part V of the Housing Act 1985 (right to buy).

(5) Exception 4 is that consent is not required for a disposal in pursuance of a tenant's right to acquire under—
- (a) section 180, or
- (b) section 16 of the Housing Act 1996 (c. 52) (tenant's right to acquire social housing in Wales).

174 Procedure

(1) Consent may be—
- (a) general, or
- (b) specific (whether as to particular registered providers, as to particular property, as to particular forms of disposal or in any other way).

(2) Consent may be retrospective.

(3) Consent may be expressed by reference to a policy for disposals submitted by a registered provider.

(4) Consent may be conditional.

(5 Before giving consent the regulator must consult—
- (a) the HCA,

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(b) one or more bodies appearing to it to represent the interests of registered providers, and

(c) one or more bodies appearing to it to represent the interests of tenants.

(6 Subsection (5) does not apply to specific consent relating only to one or more particular registered providers or properties.

Commencement Information

I124 S. 174(5)(6) in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)** (with art. 3(3)(4))

VALID FROM 01/04/2010

175 Disposal without consent

(1) A purported disposal by a registered provider is void if—

(a) it requires the regulator's consent, and

(b) the regulator has not given consent.

(2) But subsection (1) does not apply to a disposal by a non-profit registered provider to one or more individuals ("the buyer") if—

(a) the disposal is of a single dwelling, and

(b) the registered provider reasonably believes at the time of the disposal that the buyer intends to use the property as the buyer's principal residence.

VALID FROM 01/04/2010

176 Notification where disposal consent not required

(1) If a non-profit registered provider disposes of land other than a dwelling which is social housing it shall notify the regulator as soon as is reasonably practicable.

(2) The regulator may give a direction dispensing with the notification requirement.

(3) Section 174(1) and (3) to (6) applies to a direction under this section as it applies to consent under section 172.

VALID FROM 01/04/2010

Proceeds

177 Separate accounting

(1) The accounts of a registered provider must show its net disposal proceeds, as a separate "disposal proceeds fund".

(2) The following are net disposal proceeds—

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(a) net proceeds of sale to a tenant in pursuance of the right to acquire conferred by section 180,

(b) net proceeds of sale to a tenant in pursuance of the right to acquire conferred by section 16 of the Housing Act 1996 (c. 52),

(c) net proceeds of sale of property in respect of which a grant was made under section 21 of that Act,

(d) net proceeds of sale of property in respect of which a grant was made under section 19 of this Act in respect of discounts given by a registered provider on disposals of dwellings to tenants,

(e) grant received under section 20 or 21 of the 1996 Act,

(f) grant received under section 19 of this Act in respect of discounts given by a registered provider on disposals of dwellings to tenants,

(g) repayments of discount in respect of which grant was received under section 20 or 21 of the 1996 Act,

(h) repayments of discount in respect of which grant was received under section 19 of this Act in respect of discounts given by a registered provider on disposals of dwellings to tenants,

(i) other proceeds of sale specified by the regulator, and

(j) other grants specified by the regulator.

(3) The regulator shall determine amounts to be deducted in determining net proceeds of sale.

(4) The method of constituting the disposal proceeds fund and showing it in the accounts shall be in accordance with a direction of the regulator.

(5) Subsections (5) to (7) of section 127 apply to a direction under this section as to a direction under that section.

(6) Sections 141 and 142 apply in relation to a direction under this section as in relation to a direction under section 127.

(7) Interest shall be added to the fund in accordance with a determination made by the regulator.

(8) Where this section applies in relation to the proceeds of sale arising on a disposal, section 32 above, section 27 of the Housing Act 1996 (c. 52) and section 52 of the Housing Act 1988 (c. 50) do not apply.

178 Use of proceeds

(1) Sums in a registered provider's disposal proceeds fund may be used or allocated only in accordance with a direction by the regulator.

(2) The regulator may give a direction only with the Secretary of State's approval.

(3) If at the end of a period specified by the regulator the disposal proceeds fund includes sums which have not been allocated in accordance with subsection (1), the regulator may require the registered provider to pay the sums to the HCA.

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VALID FROM 01/04/2010

Tenants' rights and duties

179 Application of Housing Act 1996

(1) The following provisions of the Housing Act 1996 apply in relation to disposals of social housing by registered providers, with the modifications set out below (and any other necessary modifications).

(2) The provisions are—
- (a) sections 11 to 12 (repayment of discount on disposal),
- (b) sections 12A and 12B (landlord's right of first refusal),
- (c) section 13 (disposal of property in National Park), and
- (d) sections 14 and 15 (supplemental).

(3) In those provisions—
- (a) references to a registered social landlord shall be treated as references to a registered provider,
- (b) references to consent given by the Welsh Ministers under section 9 of the 1996 Act shall be treated as references to consent given by the regulator under section 172 of this Act,
- (c) references to the Welsh Ministers in connection with a power to make orders or regulations shall be treated as references to the Secretary of State,
- (d) in section 12(5)(b) of the 1996 Act the reference to the Welsh Ministers shall be treated as a reference to the HCA, and
- (e) references to a resolution of the National Assembly for Wales shall be treated as references to a resolution of either House of Parliament.

(4) This section does not affect the continued application of the provisions listed in subsection (2) in relation to disposals made before this section comes into force.

VALID FROM 01/04/2010

Right to acquire

180 Right to acquire

(1) The tenant of a dwelling in England has a right to acquire the dwelling if—
- (a) the landlord is a registered provider or a registered social landlord,
- (b) the tenancy is within subsection (2),
- (c) the provision of the dwelling was publicly funded,
- (d) the dwelling has remained in the social rented sector ever since that provision, and
- (e) the tenant satisfies any qualifying conditions applicable under Part V of the Housing Act 1985 (c. 68) (as it applies by virtue of section 184).

(2) A tenancy is within this subsection if it is—

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(a) an assured tenancy, other than an assured shorthold tenancy or a long tenancy, or

(b) a secure tenancy.

(3) The reference in subsection (1)(a) to a registered provider includes—

(a) a person who provided the dwelling in fulfilment of a condition imposed by the HCA when giving assistance to the person;

(b) a person who provided the dwelling wholly or partly by means of a grant under section 27A of the Housing Act 1996 (c. 52).

181 Interpretation: "publicly funded"

(1) The provision of a dwelling was publicly funded if any of the following conditions is satisfied.

(2) Condition 1 is that—

(a) the dwelling was provided by a person in fulfilment of a condition imposed by the HCA when giving assistance to the person, and

(b) before giving the assistance the HCA notified the person that if it did so the provision of the dwelling would be regarded as publicly funded.

(3) Condition 2 is that the dwelling was provided wholly or partly by using sums in the disposal proceeds fund of—

(a) a registered provider, or

(b) a registered social landlord.

(4) Condition 3 is that —

(a) the dwelling was acquired by a registered provider, or a registered social landlord, on a disposal by a public sector landlord,

(b) the disposal was made on or after 1st April 1997, and

(c) at the time of the disposal the dwelling was capable of being let as a separate dwelling.

(5) Condition 3 is not satisfied if the dwelling was acquired in pursuance of a contract made, or option created, before 1st April 1997.

(6) Condition 4 is that—

(a) the dwelling was provided wholly or partly by means of a grant under section 18 or 27A of the Housing Act 1996 (c. 52), and

(b) when the grant was made the recipient was notified under section 16(4) of that Act that the dwelling was to be regarded as funded by means of such a grant.

182 Interpretation: "remained in the social rented sector"

(1) This section applies for the purposes of determining whether a dwelling has remained in the social rented sector.

(2) A dwelling shall be treated as having remained in the social rented sector for any period during which—

(a) the freeholder was a person within subsection (3), and

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(b) each leaseholder was either a person within that subsection or an individual holding otherwise than under a long tenancy.

(3) A person is within this subsection if the person is—
(a) a registered provider,
(b) a registered social landlord, or
(c) a public sector landlord.

(4) A dwelling provided wholly or partly by means of a grant under section 27A of the Housing Act 1996 shall also be treated as having remained in the social rented sector for any period during which it was used exclusively for permitted purposes by—
(a) the recipient of the grant, or
(b) any person treated as the recipient by virtue of section 27B of that Act.

(5) "Permitted purposes" are purposes for which the grant was made and any other purposes agreed by the Housing Corporation or the HCA.

(6) Where a lease of a dwelling has been granted to a former freeholder in pursuance of paragraph 3 of Schedule 9 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) (mandatory leaseback to former freeholder on collective enfranchisement) the reference in subsection (1)(a) above to the freeholder shall be construed as a reference to the leaseholder under that lease.

183 Interpretation: other expressions

(1) The definitions in this section apply to sections 180 to 182.

(2) The HCA gives "assistance" to a person if it—
(a) transfers housing or other land to the person,
(b) provides infrastructure to the person, or
(c) gives financial assistance to the person,
and for this purpose "infrastructure" has the same meaning as in Part 1.

(3) References to a "registered social landlord" are to a body which, at the time to which the reference relates, was a registered social landlord within the meaning of Part 1 of the Housing Act 1996 (c. 52) as it then had effect.

(4) "Leaseholder" does not include a mortgagee.

(5) "Long tenancy" has the same meaning as in Part V of the Housing Act 1985 (c. 68).

(6) A person provides a dwelling if the person—
(a) acquires, constructs, converts, improves or repairs housing or other land for use as a dwelling, or
(b) ensures such acquisition, construction, conversion, improvement or repair by another.

(7) "Public sector landlord" means anyone falling within section 80(1) of the Housing Act 1985.

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184 Right to acquire: supplemental

(1) Section 17 of the Housing Act 1996 (right to acquire: supplemental) applies in relation to the right to acquire under section 180 of this Act with the modifications set out below.

(2) The modifications are as follows—
- (a) references to the right to acquire under section 16 of the 1996 Act shall be treated as references to the right to acquire under section 180 of this Act,
- (b) references to the Welsh Ministers shall be treated as references to the Secretary of State,
- (c) the reference to registered social landlords shall be treated as a reference to registered providers, and
- (d) the reference to a resolution of the National Assembly for Wales shall be treated as a reference to a resolution of either House of Parliament.

185 Right to acquire: consequential amendments

(1) In section 16 of the Housing Act 1996 (right to acquire)—
- (a) for subsection (1) substitute—

  "(1) The tenant of a dwelling in Wales has a right to acquire the dwelling if—
  - (a) the landlord is a registered social landlord or a registered provider of social housing,
  - (b) the tenancy is—
    - (i) an assured tenancy, other than an assured shorthold tenancy or a long tenancy, or
    - (ii) a secure tenancy,
  - (c) the dwelling was provided with public money and has remained in the social rented sector, and
  - (d) the tenant satisfies any further qualifying conditions applicable under Part V of the Housing Act 1985 (the right to buy) as it applies in relation to the right conferred by this section.",
- (b) in subsection (2)(c) after "registered social landlord" insert " or a registered provider of social housing ", and
- (c) in subsection (3)(a) and (b)(ii) after "registered social landlord" insert " , a registered provider of social housing ".

(2) In section 16A(1) (extension of section 16 to dwellings funded by grants under section 27A) after the first "dwelling" insert " in Wales ".

(3) In section 20 (purchase grant where right to acquire exercised)—
- (a) in subsection (1) after "landlords" insert " and registered providers of social housing ", and
- (b) in subsection (4) after "landlord" insert " or registered provider of social housing ".

(4) In section 21 (purchase grant in respect of other disposals)—
- (a) in subsection (1)—

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(i) after "landlords" insert " and registered providers of social housing ", and

(ii) after "dwellings" insert " in Wales ",

(b) in subsection (2)—

(i) after "section 16" insert " or by section 180 of the Housing and Regeneration Act 2008 ", and

(ii) for "landlord's" substitute " landlord or provider (as the case may be) ", and

(c) in subsection (4) after "landlord" insert " or registered provider of social housing ".

VALID FROM 01/04/2010

Miscellaneous

186 Former registered providers

Where a person ceases to be a registered provider, sections 171 to 175 continue to apply in respect of any property owned by the person at any time when it was registered.

187 Change of use, etc.

(1) Where the regulator's consent is required for the disposal of a dwelling by a registered provider, sections 172 to 175 continue to apply in relation to a disposal of the land by the registered provider even if the land has ceased to be a dwelling.

(2) Sections 172 to 175 also apply in relation to a disposal of land by a registered provider which would fall within Exception 2 or 3 of section 173 but for a change of use of the land by the registered provider.

188 Trustees

Section 39 of the Settled Land Act 1925 (c. 18) (disposal by trustees: best price etc.) shall not apply to the disposal of land by a registered provider.

189 Charities

Nothing in this Chapter authorises a charity to effect a disposal which it would not otherwise have power to effect.

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VALID FROM 01/04/2010

Consents under other legislation

190 Consent to disposals under other legislation

The Secretary of State's functions under the following provisions are transferred to the regulator in so far as they relate to disposals by registered providers—

(a) section 171D of the Housing Act 1985 (c. 68) (consent to certain disposals of housing subject to the preserved right to buy),

(b) sections 81 and 133 of the Housing Act 1988 (c. 50) (consent to certain disposals of housing obtained from housing action trusts or local authorities), and

(c) section 173 of the Local Government and Housing Act 1989 (c. 42) (consent to certain disposals of housing obtained from new town corporations).

191 Section 190: consequential amendments

(1) In section 171D of the Housing Act 1985 (consent to certain disposals of housing obtained subject to the preserved right to buy)—

(a) in subsection (2) (consent) for "Secretary of State" substitute " appropriate authority ", and

(b) after that subsection insert—

"(2A) "The appropriate authority" means—

(a) in relation to a disposal of land in England by a registered provider of social housing, the Regulator of Social Housing,

(b) in relation to any other disposal of land in England, the Secretary of State, and

(c) in relation to a disposal of land in Wales, the Welsh Ministers."

(2) In section 81 of the Housing Act 1988 (consent to certain disposals of housing obtained from housing action trusts)—

(a) in subsection (3) (consent) for "Secretary of State" substitute " appropriate authority ",

(b) after that subsection insert—

"(3A) In this section "the appropriate authority" means—

(a) in relation to a disposal of land in England by a registered provider of social housing, the Regulator of Social Housing,

(b) in relation to any other disposal of land in England, the Secretary of State, and

(c) in relation to a disposal of land in Wales, the Welsh Ministers.",

(c) in subsection (5) (consultation of tenants) for "Secretary of State" substitute " appropriate authority ",

(d) in subsection (5)(a) for "himself" substitute " itself ", and

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(e) omit subsection (6) (consultation of Housing Corporation).

(3) In section 133 of that Act (consent to certain disposals of housing obtained from local authorities)—

(a) in subsection (1) (consent) for "Secretary of State" substitute " appropriate authority ",

(b) after that subsection insert—

"(1ZA) In this section "the appropriate authority" means—

(a) in relation to a disposal of land in England by a registered provider of social housing, the Regulator of Social Housing,

(b) in relation to any other disposal of land in England, the Secretary of State, and

(c) in relation to a disposal of land in Wales, the Welsh Ministers.",

(c) after subsection (1A) insert—

"(1B) This section does not apply to a disposal of land by a registered provider of social housing unless the land is social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008.",

(d) in subsection (3)(c) (modification of certain provisions applied for the purposes of section 133) after "this section," insert " any reference to the appropriate national body shall be construed as a reference to the appropriate authority and ",

(e) in subsection (5) (consultation of tenants) for "Secretary of State" substitute " appropriate authority ",

(f) in subsection (5)(a) for "himself" substitute " itself ", and

(g) omit subsection (6) (consultation of Housing Corporation).

(4) In section 173 of the Local Government and Housing Act 1989 (c. 42) (consent to certain disposals of housing obtained from new town corporations)—

(a) in subsection (1)(a) (consent) for "Secretary of State" substitute " appropriate authority ",

(b) after subsection (1) insert—

"(1A) In this section "the appropriate authority" means—

(a) in relation to a disposal of land in England by a registered provider of social housing, the Regulator of Social Housing,

(b) in relation to any other disposal of land in England, the Secretary of State, and

(c) in relation to a disposal of land in Wales, the Welsh Ministers.",

(c) in subsection (5) (consultation of tenants) for "Secretary of State" substitute " appropriate authority ",

(d) in subsection (5)(a) for "himself" substitute " itself ", and

(e) omit subsection (6) (consultation of Housing Corporation).

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CHAPTER 6

REGULATORY POWERS

192 Overview

This Chapter—

(a) allows the regulator to set standards for the provision of social housing (sections 193 to 198),

(b) gives the regulator powers to monitor compliance (sections 199 to 210),

(c) gives the regulator a degree of control over the governance of non-profit registered providers (sections 211 to 214),

(d) requires the regulator to give guidance about complaints relating to registered providers and about the use of its powers under this Chapter and Chapter 7 (sections 215 and 216), and

(e) allows the regulator to arrange for the accreditation of managers of social housing (section 217).

Commencement Information

I125 S. 192 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

Standards

193 Provision of social housing

(1) The regulator may set standards for registered providers as to the nature, extent and quality of accommodation, facilities or services provided by them in connection with social housing.

(2) Standards under subsection (1) may, in particular, require registered providers to comply with specified rules about—

(a) criteria for allocating accommodation,

(b) terms of tenancies,

(c) levels of rent (and the rules may, in particular, include provision for minimum or maximum levels of rent or levels of increase or decrease of rent),

(d) maintenance,

(e) procedures for addressing complaints by tenants against landlords,

(f) methods for consulting and informing tenants,

(g) methods of enabling tenants to influence or control the management of their accommodation and environment,

(h) policies and procedures required by section 218A of the Housing Act 1996 (c. 52) in connection with anti-social behaviour,

(i) landlords' contribution to the environmental, social and economic well-being of the areas in which their property is situated, and

(j) estate management.

(3) In setting standards the regulator shall have regard to the desirability of registered providers being free to choose how to provide services and conduct business.

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Commencement Information
I126 S. 193 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

194 Management

(1) The regulator may set standards for registered providers in matters relating to the management of their financial and other affairs.

(2) In respect of profit-making registered providers, standards may be made in relation to the management of their affairs only so far as relating to the provision of social housing.

(3) In setting standards the regulator shall have regard to the desirability of registered providers being free to choose how to provide services and conduct business.

Commencement Information
I127 S. 194 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

195 Code of practice

(1) The regulator may issue a code of practice which—
  (a) relates to a matter addressed by a standard, and
  (b) amplifies the standard.

(2) In considering whether standards have been met the regulator may have regard to a code of practice.

(3) The regulator may revise or withdraw a code of practice.

(4) The regulator shall make arrangements for bringing a code of practice to the attention of registered providers.

Commencement Information
I128 S. 195 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

196 Consultation

(1) Before setting standards, or issuing, revising or withdrawing a code of practice, the regulator shall consult the following or ensure that they have been consulted—
  (a) one or more bodies appearing to it to represent the interests of registered providers,
  (b) one or more bodies appearing to it to represent the interests of secured creditors of registered providers,
  (c) one or more bodies appearing to it to represent the interests of tenants of social housing,
  (d) the Audit Commission for Local Authorities and the National Health Service in England,

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(e) one or more bodies appearing to it to represent the interests of local housing authorities,

(f) the HCA, and

(g) the Secretary of State.

(2) Before setting a standard which would apply to charities, or issuing, revising or withdrawing a code of practice which applies or would apply to charities, the regulator must consult the Charity Commission.

Commencement Information

I129 S. 196 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)** (with art. 3(3)(4))

197 Direction by Secretary of State

(1) The Secretary of State may direct the regulator—

(a) to set a standard under section 193,

(b) about the content of standards under section 193, or

(c) to have regard to specified objectives when setting standards under section 193 or 194.

(2) The Secretary of State may give a direction under subsection (1)(a) or (b) only if it relates, in the Secretary of State's opinion, to—

(a) quality of accommodation,

(b) rent, or

(c) involvement by tenants in the management by registered providers of accommodation.

(3) In deciding whether to give a direction the Secretary of State shall, in particular, have regard to the regulator's fundamental objectives.

(4) Before giving a direction the Secretary of State must consult—

(a) the regulator,

(b) the HCA,

(c) the Audit Commission for Local Authorities and the National Health Service in England,

(d) one or more bodies appearing to the Secretary of State to represent the interests of local housing authorities,

(e) one or more bodies appearing to the Secretary of State to represent the interests of tenants of social housing, and

(f) one or more bodies appearing to the Secretary of State to represent the interests of registered providers.

(5) Before giving a direction about a standard which would apply to charities the Secretary of State must consult the Charity Commission.

(6) A direction may disapply the requirement to consult under section 196 in relation to specified matters.

(7) The regulator shall comply with any direction.

(8) The Secretary of State shall publish—

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(a) each proposed direction that is the subject of a consultation,
(b) each response to a consultation, and
(c) each direction.

Commencement Information
I130 S. 197 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)** (with art. 3(3)(4))

198 Supplemental

(1) Failure to meet a standard is a ground for exercising a power in this Chapter or Chapter 7.

(2 The regulator shall make arrangements for bringing standards to the attention of registered providers.

(3 The regulator may revise or withdraw standards; and section 196 applies to revising or withdrawing standards as to setting standards.

(4 Standards may be expressed by reference to documents prepared by others.

(5 Standards—
(a) may make provision generally or only in relation to specified cases, circumstances or areas, and
(b) may make different provision for different cases, circumstances or areas.

Commencement Information
I131 S. 198(2)-(5) in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

Monitoring

VALID FROM 01/04/2010

199 Survey

(1) This section applies where the regulator suspects that a registered provider may be failing to maintain premises in accordance with standards under section 193.

(2) The regulator may arrange for a survey of the condition of the premises by an authorised person.

(3) In subsection (2) "authorised person" means a member of the regulator's staff, or another person, authorised in writing by the regulator for the purposes of this section.

(4) An authorised person may enter the premises at any reasonable time and carry out the survey.

(5) Before carrying out the survey an authorised person must give the registered provider at least 28 days' notice.

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(6) A registered provider who receives notice of a survey must give each occupier of the premises at least 7 days' notice.

(7) After carrying out a survey an authorised person must produce a written report.

(8) The regulator must give the registered provider a copy of the report.

VALID FROM 01/04/2010

200 Survey: supplemental

(1) An authorised person carrying out a survey, or seeking to enter premises in order to carry out a survey, must produce a copy of the authorisation on request by an occupier.

(2) The regulator may require the registered provider to pay some or all of the costs of the survey and report.

(3) A registered provider who fails without reasonable excuse to comply with section 199(6) commits an offence.

(4) A registered provider, or an officer of a registered provider, who obstructs an authorised person in exercising a power under section 199 commits an offence.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) Proceedings for an offence under this section may be brought only by or with the consent of—
   (a) the regulator, or
   (b) the Director of Public Prosecutions.

VALID FROM 01/04/2010

201 Inspections

(1) The regulator may arrange for a person to inspect—
   (a) a registered provider's performance of its functions in relation to the provision of social housing, or
   (b) the financial or other affairs of a registered provider.

(2) The person must not be a member of the regulator's staff.

(3) If the purpose (or main purpose) of an inspection is to assess a registered provider's performance by reference to standards under section 193 the regulator—
   (a) shall invite the Audit Commission to carry out the inspection, and
   (b) may arrange for another person to carry out the inspection only if the Audit Commission declines.

(4) The regulator may direct a person carrying out an inspection to discontinue it.

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(5) An inspection may be general or specific.

(6) The regulator shall reimburse costs incurred by the Audit Commission in carrying out an inspection.

(7) If the regulator arranges for a person other than the Audit Commission to carry out an inspection the arrangements may include provision about payments.

(8) In this section and sections 202 and 203 "the Audit Commission" means the Audit Commission for Local Authorities and the National Health Service in England.

202 Inspections: supplemental

(1) After carrying out an inspection under section 201 the person carrying out the inspection must produce a written report.

(2) The regulator—
- (a) must give the registered provider a copy of the report, and
- (b) may publish the report and related information.

(3) The person who carried out the inspection may publish the report and related information (whether or not the regulator has done so).

(4 The Secretary of State may by order authorise the regulator to charge fees for inspections.

(5) An inspected registered provider must pay any fee charged.

(6 Before making an order the Secretary of State shall consult—
- (a) the regulator,
- (b) one or more bodies appearing to the Secretary of State to represent the interests of registered providers,
- (c) the Audit Commission, and
- (d) such other persons as the Secretary of State thinks appropriate.

(7 The regulator shall prescribe a scale of fees for inspections, having consulted—
- (a) the Secretary of State,
- (b) one or more bodies appearing to the regulator to represent the interests of registered providers, and
- (c) the Audit Commission.

Commencement Information

I132 S. 202(4)(6)(7) in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

VALID FROM 01/04/2010

203 Inspector's powers

(1) An inspector may by notice require a person to provide specified documents or information.

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(2) The power under subsection (1) may be exercised only in relation to documents and information of a kind in respect of which the regulator can impose a requirement under section 107.

(3) Sections 107(3) to (7) and 108 apply for the purposes of subsection (1) (with any necessary modifications).

(4) An inspector may at any reasonable time—
  (a) enter premises occupied by the registered provider which is being inspected, and
  (b) inspect, copy or take away documents found there.

(5) The reference to documents found on premises includes—
  (a) documents stored on computers or electronic storage devices on the premises, and
  (b) documents stored elsewhere which can be accessed by computers on the premises.

(6) The power to inspect documents includes the power to inspect any computer or electronic storage device on which they have been created or stored.

(7) An inspector may require any person on the premises to provide such facilities or assistance as the inspector reasonably requests.

(8) For the purposes of subsections (5) and (6) an inspector may require any person having charge of a computer to provide such assistance as the inspector reasonably requests.

(9) It is an offence for a person without reasonable excuse to obstruct an inspector exercising the powers conferred by subsections (4) to (8).

(10) A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(11) Proceedings for an offence may be brought only by or with the consent of—
  (a) the regulator, or
  (b) the Director of Public Prosecutions.

(12) In this section "inspector" means—
  (a) a person authorised in writing by the Audit Commission to exercise the powers under this section for the purpose of an inspection carried out by the Audit Commission under section 201, or
  (b) a person authorised in writing by the regulator to exercise the powers under this section for the purpose of any other inspection under that section.

VALID FROM 01/04/2010

204 Performance information

(1) The regulator may require a registered provider—
  (a) to prepare an annual report assessing the provider's performance by reference to standards under section 193 or 194, and

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(b) to send the report to the regulator within a specified period.

(2) A requirement may specify matters to be covered by a report.

(3) Failure to comply with a requirement without reasonable excuse is an offence.

(4) A person guilty of an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) Proceedings for an offence may be brought only by or with the consent of—
(a) the regulator, or
(b) the Director of Public Prosecutions.

VALID FROM 01/04/2010

205 Publication of performance information

(1) The regulator shall publish, at least once a year, information about the performance of registered providers.

(2) In particular, the regulator shall include information likely to be useful to—
(a) tenants,
(b) potential tenants, and
(c) local authorities.

VALID FROM 01/04/2010

206 Inquiry

(1) If the regulator suspects that the affairs of a registered provider may have been mismanaged, the regulator may hold an inquiry.

(2) The regulator shall appoint one or more individuals to conduct the inquiry.

(3) An individual is eligible for appointment only if the individual is independent of the regulator.

(4) Individuals are independent of the regulator if they and the members of their family—
(a) are not members, employees or consultants of the regulator, and
(b) have not been members or employees of the regulator within the previous five years.

(5) "Consultant" means an individual providing services to the regulator otherwise than by virtue of employment with the regulator or an appointment under this section.

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VALID FROM 01/04/2010

207 Inquiry: supplemental

(1) The individual or individuals conducting an inquiry ("the inquirer") shall determine its procedure.

(2) The inquirer may consider the affairs of a profit-making registered provider only so far as relating to social housing.

(3) The inquirer may consider affairs of a body which at the material time was a subsidiary or associate of the registered provider.

(4) The inquirer may make interim reports.

(5) The inquirer shall make a final report on matters specified by the regulator.

(6) The regulator may arrange for the publication of all or part of an interim or final report.

(7) A local authority may contribute to the regulator's expenses in connection with an inquiry.

VALID FROM 01/04/2010

208 Inquiry: evidence

(1) The inquirer may by notice require a person to provide specified documents or information.

(2) The notice may, in particular, require evidence to be given on oath (and the inquirer may administer oaths for that purpose).

(3) The power under subsection (1) may be exercised only in relation to documents and information of a kind in respect of which the regulator can impose a requirement under section 107.

(4) Sections 107(3) to (7) and 108 apply for the purposes of this section (with any necessary modifications).

VALID FROM 01/04/2010

209 Inquiry: charities

(1) An inquiry may be held in relation to a registered charity only if it has received public assistance.

(2) An inquiry in relation to a registered charity may only relate to its activities relating to housing.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) If an inquiry is held in relation to a registered charity the regulator shall notify the Charity Commission.

VALID FROM 01/04/2010

210 Extraordinary audit

(1) Where an inquiry in respect of a registered provider is being held, or has been held, under section 206, the regulator may require the registered provider to allow its accounts and balance sheet to be audited by a qualified auditor appointed by the regulator.

(2) "Qualified auditor" means a person eligible for appointment as auditor of the registered provider's ordinary accounts.

(3) On completion of the audit, the auditor shall report to the regulator about such matters and in such form as the regulator determines.

(4) The revenue accounts of a registered charity may be audited under this section only insofar as they relate to its housing activities.

(5) The registered provider shall pay the costs of the audit (including the auditor's remuneration).

Management and constitution

VALID FROM 01/04/2010

211 Non-profit providers only

This group of sections applies only to non-profit registered providers.

212 Industrial and provident society: change of rules

(1) This section applies to an industrial and provident society.

(2 An amendment of the society's rules requires consent if it—

(a) alters the society's objects,

(b) makes provision about the distribution of assets to members, or

(c) enables the society to become, or cease to be, a subsidiary or associate of another body.

(3) An amendment of the rules which requires consent is effective only if the regulator has first consented.

(4) The regulator may not consent to an amendment which it thinks would turn the society into a profit-making organisation.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) The society must notify the regulator of an amendment of the rules which does not require consent.

(6) In relation to an amendment which requires consent the requirement in section 10(1) of the Industrial and Provident Societies Act 1965 (c. 12) (sending copies of amendment of rules to FSA) is satisfied only if the copies are accompanied by a copy of the regulator's consent.

(7) The preceding provisions of this section shall be treated as if they formed part of that Act as well as of this Act.

(8 The Secretary of State may by order amend the list in subsection (2).

Commencement Information
I133 S. 212(2)(8) in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

VALID FROM 01/04/2010

213 Charity: change of objects

(1) This section applies to a registered charity which is not a registered company.

(2) An amendment of the charity's objects is effective only if the Charity Commission has first consented.

(3) Before giving consent the Charity Commission must consult the regulator.

214 Companies: change of articles

(1) This section applies to a registered company.

(2 An amendment of the company's articles of association requires consent if it—
- (a) alters the company's objects,
- (b) makes provision about the distribution of assets to members, or
- (c) enables the company to become, or cease to be, a subsidiary or associate of another body.

(3) An amendment of the articles of association which requires consent is effective only if the regulator has first consented.

(4) The regulator may not consent to an amendment which it thinks would turn the company into a profit-making organisation.

(5) The company must notify the regulator—
- (a) of an amendment of the articles of association which does not require consent, or
- (b) of a change to its name or registered office.

(6) In relation to an amendment which requires consent the requirement in section 30 of the Companies Act 2006 (c. 46) (sending copy of resolution to registrar) is satisfied only if the copy is accompanied by a copy of the regulator's consent.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7 The Secretary of State may by order amend the list in subsection (2).

Commencement Information
I134 S. 214(2)(7) in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

Guidance

215 Use of intervention powers

(1 The regulator shall publish—

(a) guidance about complaints to the regulator about the performance of registered providers, and

(b) guidance about how it uses and intends to use powers under this Chapter and Chapter 7.

(2 Guidance under subsection (1)(a) must, in particular, specify—

(a) the procedure to be followed in making a complaint,

(b) the criteria used by the regulator in deciding whether to investigate a complaint, and

(c) periods within which the regulator aims to inform complainants of the result of complaints.

(3) The regulator shall have regard to guidance under this section.

Commencement Information
I135 S. 215(1)(2) in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)**

216 Consultation

Before giving guidance under section 215 the regulator must consult—

(a) one or more bodies appearing to it to represent the interests of registered providers,

(b) one or more bodies appearing to it to represent the interests of tenants,

(c) one or more bodies appearing to it to represent the interests of local housing authorities,

(d) the Audit Commission for Local Authorities and the National Health Service in England, and

(e) the HCA.

Commencement Information
I136 S. 216 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(1)** (with art. 3(3)(4))

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/04/2010

Managers of social housing

217 Accreditation

(1) The regulator may operate a scheme for the purpose of accrediting persons who provide services in connection with the management of social housing.

(2) The regulator may approve a scheme operated by someone else for that purpose.

(3) Approval may be withdrawn.

(4) A scheme may include provision about—
- (a) eligibility for accreditation;
- (b) standards to be met by accredited persons (which may operate by reference to standards under section 193);
- (c) monitoring compliance;
- (d) complaints against accredited persons;
- (e) renewal, suspension and withdrawal of accreditation.

(5) Accreditation, or continued accreditation, may be conditional on the payment of fees.

(6) Standards under section 193 may refer to accreditation under this section.

CHAPTER 7

ENFORCEMENT POWERS

VALID FROM 01/04/2010

General

218 Exercise of enforcement powers

(1) This section applies where the regulator is deciding—
- (a) whether to exercise a power under this Chapter,
- (b) which power under this Chapter to exercise, or
- (c) how to exercise a power under this Chapter.

(2) The regulator shall consider—
- (a) the desirability of registered providers being free to choose how to provide services and conduct business;
- (b) whether the failure or other problem concerned is serious or trivial;
- (c) whether the failure or other problem is a recurrent or isolated incident;
- (d) the speed with which the failure or other problem needs to be addressed.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/04/2010

Enforcement notice

219 Overview

This group of sections allows the regulator to require a registered provider to take specified action to resolve a specified failure or other problem.

220 Grounds for giving notice

(1) The regulator may give an enforcement notice to a registered provider if the regulator is satisfied that—
  (a) any of the following cases applies, and
  (b) giving an enforcement notice is appropriate (whether it is likely to be sufficient in itself or a prelude to further action).

(2) Case 1 is where the registered provider has failed to meet a standard **[**[F15]applicable to it**]** under section 193 or 194.

(3) Case 2 is where the affairs of the registered provider have been mismanaged.

(4) Case 3 is where the registered provider has failed to comply with an earlier enforcement notice.

(5) Case 4 is where the registered provider has failed to publish information in accordance with a requirement under section 228(3) or 240(3).

(6) Case 5 is where the interests of tenants of the registered provider require protection.

(7) Case 6 is where **[**[F16]the registered provider is a private registered provider and its assets**]** require protection.

(8) Case 7 is where the registered provider has given an undertaking under section 125 and failed to comply with it.

[[F17](9) Case 8 is where the registered provider has failed to pay—
  (a) in the case of a private registered provider, an annual fee under section 117(1)(b);
  (b) in the case of a local authority, an initial fee or an annual fee under section 117(1)(a) or (b).**]**

(10) Case 9 is where an offence under this Part has been committed by the registered provider.

(11) Case 10 is where the registered provider has failed to comply with an order made by an ombudsman appointed by virtue of section 124.

(12) Where the regulator is satisfied that an offence under this Part has been committed in respect of a registered provider but by another person (such as a member, employee or agent of the registered provider)—
  (a) Case 9 applies,
  (b) the regulator may give an enforcement notice to the other person, and

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(c) this Chapter applies with the substitution of references to that other person for references to the registered provider.

Textual Amendments

F15 Words in s. 220(2) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 56(2)**

F16 Words in s. 220(7) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 56(3)**

F17 S. 220(9) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 56(4)**

Commencement Information

I137 S. 220 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

221 Content

(1) An enforcement notice must—

(a) specify the grounds on which it is given,

(b) specify the action the regulator wants the registered provider to take in response to the notice,

(c) specify when the action is to be taken (which may be immediately on receipt of the notice), and

(d) explain the effect of sections 223 to 225.

(2) The action specified in an enforcement notice may include publishing the notice in a specified manner.

222 Notifying HCA

If the regulator gives an enforcement notice it must send a copy to the HCA.

223 Appeal

A registered provider who is given an enforcement notice may appeal to the High Court.

224 Withdrawal

The regulator may withdraw an enforcement notice by notice to the registered provider.

225 Sanction

(1) If a registered provider does not comply with an enforcement notice the regulator shall consider exercising another power under Chapter 6 or this Chapter.

(2) In the case of an enforcement notice given to a person other than the registered provider by virtue of section 220(12), the regulator may only—

(a) exercise the power to issue a penalty notice to the person in accordance with the next group of sections, or

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(b) take steps to have the person prosecuted for the offence by reference to which the enforcement notice was given.

(3) A person to whom an enforcement notice is given on the ground in Case 9 of section 220 may not be prosecuted for the offence by reference to which the enforcement notice was given unless the person fails to comply with the enforcement notice.

Penalty

VALID FROM 01/04/2010

226 Overview

This group of sections allows the regulator to penalise failures on the part of registered providers by the imposition of fines.

VALID FROM 01/04/2010

227 Grounds for imposition

(1) The regulator may require a registered provider to pay a penalty if the regulator is satisfied that—
  (a) any of the following cases applies, and
  (b) the imposition of a penalty is appropriate (whether or not as part of a response including other action).

(2) Case 1 is where the registered provider has failed to meet a standard under section 193 or 194.

(3) Case 2 is where the affairs of the registered provider have been mismanaged.

(4) Case 3 is where the registered provider has failed to comply with an enforcement notice.

(5) Case 4 is where the registered provider has given an undertaking under section 125 and failed to comply with it.

(6) Case 5 is where the registered provider has failed to pay an annual fee under section 117(2).

(7) Case 6 is where an offence under this Part has been committed by the registered provider.

(8) Where the regulator is satisfied that an offence under this Part has been committed in respect of a registered provider but by another person (such as a member, employee or agent of the registered provider)—
  (a) Case 6 applies,
  (b) the regulator may require the other person to pay a penalty, and

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(c) this Chapter applies with the substitution of references to that other person for references to the registered provider.

(9) In order to rely on Case 6 the regulator must be satisfied beyond reasonable doubt that it applies.

228 Imposition

(1) A penalty is imposed by the regulator giving notice (a "penalty notice") to the registered provider.

(2) The notice must specify—
- (a) the grounds on which the penalty is imposed,
- (b) the amount of the penalty,
- (c) how the penalty must be paid,
- (d) a period within which it must be paid, and
- (e) any interest or additional penalty which, by virtue of section 234(2), is payable in the event of late payment.

(3) The notice may require the registered provider to publish information about the penalty in a specified manner.

(4) The notice must explain the effect of sections 234(1), (3) and (6) and 235.

(5) The Secretary of State—
- (a) shall make regulations about the period under subsection (2)(d),
- (b) may make other regulations about the form and content of a penalty notice, and
- (c) may make regulations about the manner in which a penalty notice is given.

Commencement Information

I138 S. 228(5) in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 7(c)**

VALID FROM 01/04/2010

229 Amount

(1) The amount of a penalty imposed on the ground specified in Case 6 of section 227 may not exceed the maximum amount of fine that a magistrates' court could impose for the relevant offence.

(2) The amount of a penalty imposed on the ground specified in any other Case of that section may not exceed £5,000.

(3) The Secretary of State may by order amend the amount specified in subsection (2).

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Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/04/2010

230 Warning

(1) Before giving a penalty notice to a registered provider the regulator must give the provider a notice (a "pre-penalty warning")—
- (a) specifying grounds on which the regulator thinks a penalty could be imposed,
- (b) warning the provider that the regulator is considering imposing a penalty,
- (c) including any indication that the regulator is able to give of the likely amount of any penalty, and
- (d) explaining the effect of sections 231, 234(1), (3) and (6) and 235.

(2) If the regulator gives a pre-penalty warning it must send a copy to—
- (a) the HCA, and
- (b) any other persons it thinks appropriate.

(3) For the purposes of subsection (2)(b) the regulator shall consider, in particular, any person who provided information as a result of which the pre-penalty warning is given.

(4) A pre-penalty warning must—
- (a) refer to section 125 (voluntary undertaking), and
- (b) indicate whether or to what extent the regulator would accept a voluntary undertaking instead of, or in mitigation of, a penalty.

(5) A pre-penalty warning may be combined with notice under one or more of sections 242, 248, 250 and 252.

VALID FROM 01/04/2010

231 Representations

(1) A pre-penalty warning must specify a period during which the registered provider may make representations to the regulator.

(2) The period must—
- (a) be a period of at least 28 days, and
- (b) begin with the date on which the registered provider receives the pre-penalty warning.

(3) Representations may concern—
- (a) whether a penalty should be imposed;
- (b) the amount of any penalty that may be imposed.

(4) After the end of the period specified under subsection (1) the regulator shall—
- (a) consider any representations made, and
- (b) decide whether to impose a penalty.

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VALID FROM 01/04/2010

232 Notifying HCA

If the regulator imposes a penalty it must send a copy of the penalty notice to the HCA.

VALID FROM 01/04/2010

233 Destination

(1) This section applies where the regulator receives money by way of penalty.

(2) The regulator may deduct a sum which represents—
- (a) the direct costs to the regulator of imposing and enforcing the penalty, and
- (b) a reasonable share of expenditure by the regulator which is indirectly referable to the imposition and enforcement of the penalty.

(3) Any excess shall be paid to the HCA, to be used for purposes which appear to it to amount to investment in social housing.

234 Enforcement

(1) A penalty shall be treated as a debt owed to the regulator.

(2) The Treasury may make regulations authorising the regulator—
- (a) to charge interest on penalty not paid during the period specified under section 228(2)(d);
- (b) to impose one or more additional penalties where a penalty is not paid during that period.

(3) Interest and additional penalty shall be treated as penalty (and may have the effect of increasing the penalty above a limit set by section 229).

(4) Regulations under subsection (2)(a) may provide for an interest rate to be—
- (a) set by a specified person, or
- (b) determined in accordance with the regulations.

(5) A penalty notice may include provision allowing a discount if the penalty is paid on or before a date specified in the notice (falling within the period specified under section 228(2)(d)).

(6) A person to whom a penalty notice is given on the ground in Case 6 of section 227 may not be prosecuted for the offence by reference to which the penalty notice was given.

Commencement Information

I139 S. 234(2)(4) in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 7(d)**

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 01/04/2010

235 Appeal

A registered provider who is given a penalty notice may appeal to the High Court against—

(a) the imposition of the penalty,

(b) its amount, or

(c) both.

Compensation

VALID FROM 01/04/2010

236 Overview

This group of sections allows the regulator to award compensation to a victim of a failure on the part of a registered provider.

VALID FROM 01/04/2010

237 Grounds for award

(1) The regulator may require a registered provider to pay compensation if the regulator is satisfied that—

(a) either of the following cases applies, and

(b) the award of compensation is appropriate (whether or not as part of a response including other action).

(2) Case 1 is where the registered provider has failed to meet a standard under section 193 or 194.

(3) Case 2 is where the registered provider has given an undertaking under section 125 and failed to comply with it.

VALID FROM 01/04/2010

238 Nature

(1) Compensation in respect of a failure may be awarded to one or more persons who have suffered as a result of the failure.

(2) But an award may be made only to—

(a) a specified tenant of social housing provided by the registered provider,

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(b) each member of a specified class of tenants of social housing provided by the registered provider, or

(c) each member of the class of tenants of social housing provided by the registered provider.

VALID FROM 01/04/2010

239 Housing ombudsman compensation

(1) The regulator may not award compensation to a person in respect of a matter if an ombudsman appointed by virtue of section 124 has awarded compensation to the person in respect of the matter.

(2) But if compensation awarded by an ombudsman by virtue of section 124 has not been paid as required, the regulator may award compensation.

240 Award

(1) Compensation is awarded by the regulator giving notice (a "compensation notice") to—

(a) the registered provider, and

(b) the person to be compensated.

(2) The notice must specify—

(a) the grounds on which the compensation is awarded,

(b) the amount of the compensation,

(c) the person to be compensated,

(d) any interest or additional compensation which, by virtue of section 244(2), is payable in the event of late payment, and

(e) a period within which it must be paid.

(3) The notice may require the registered provider to publish information about the compensation award in a specified manner.

(4) The notice must explain the effect of sections 244(1) and (3) and 245.

(5) The Secretary of State—

(a) shall make regulations about the period under subsection (2)(e),

(b) may make other regulations about the form and content of a compensation notice, and

(c) may make regulations about the manner in which a compensation notice is given.

Commencement Information

I140 S. 240(5) in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 7(c)**

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/04/2010

241 Impact

(1) This section applies when the regulator is considering—
  (a) whether to award compensation, or
  (b) the amount of compensation to award.

(2) The regulator must take account of any information available to it about the financial situation of the registered provider.

(3) The regulator must consider the likely impact of the compensation on the registered provider's ability to provide services.

(4) In particular, the regulator must aim to avoid—
  (a) jeopardising the financial viability of the registered provider,
  (b) preventing the registered provider from honouring financial commitments, or
  (c) preventing the registered provider from taking action to remedy the matters on the grounds of which the compensation might be awarded.

VALID FROM 01/04/2010

242 Warning

(1) Before giving a compensation notice to a registered provider the regulator must give the provider a notice (a "pre-compensation warning")—
  (a) specifying grounds on which the regulator thinks compensation could be awarded,
  (b) warning the provider that the regulator is considering awarding compensation to a specified person,
  (c) including any indication that the regulator is able to give of the likely amount of any compensation, and
  (d) explaining the effect of sections 243, 244(1) and (3) and 245.

(2) Before giving a pre-compensation warning the regulator must consult the person appointed by virtue of section 124 as the ombudsman for the scheme of which the registered provider is a member.

(3) If the regulator gives a pre-compensation warning it must send a copy to—
  (a) the HCA, and
  (b) any other persons it thinks appropriate.

(4) For the purposes of subsection (3)(b) the regulator shall consider, in particular, any person who provided information as a result of which the pre-compensation warning is given.

(5) A pre-compensation warning must—
  (a) refer to section 125 (voluntary undertaking), and

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(b) indicate whether or to what extent the regulator would accept a voluntary undertaking instead of, or in mitigation of, awarding compensation.

(6) A pre-compensation warning may be combined with notice under one or more of sections 230, 248, 250 and 252.

VALID FROM 01/04/2010

243 Representations

(1) A pre-compensation warning must specify a period during which the registered provider may make representations to the regulator.

(2) The period must—
(a) be a period of at least 28 days, and
(b) begin with the date on which the registered provider receives the pre-compensation warning.

(3) Representations may address—
(a) whether compensation should be awarded;
(b) the amount of any compensation that may be awarded.

(4) After the end of the period specified under subsection (1) the regulator shall—
(a) consider any representations made, and
(b) decide whether to award compensation.

244 Enforcement

(1) Compensation shall be treated as a debt owed to the person to whom it is awarded.

(2) The Treasury may make regulations authorising the regulator—
(a) to award interest on compensation not paid during the period specified under section 240(2)(e);
(b) to award additional compensation where compensation is not paid during that period.

(3) Interest and additional compensation shall be treated as compensation.

(4) Regulations under subsection (2)(a) may provide for an interest rate to be—
(a) set by a specified person, or
(b) determined in accordance with the regulations.

Commencement Information
I141 S. 244(2)(4) in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 7(d)**

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 01/04/2010

245 Appeal

A registered provider who is given a compensation notice may appeal to the High Court against—

(a) the award of compensation,

(b) its amount, or

(c) both.

VALID FROM 01/04/2010

Management etc.

246 Overview

This group of sections gives the regulator various powers in relation to the management and constitution of registered providers.

247 Management tender

(1) This section applies if the regulator is satisfied that—

(a) a registered provider has failed to meet a standard **[**[F18]applicable to it**]** under section 193 or 194, or

(b) the affairs of a registered provider have been mismanaged in relation to social housing.

(2) The regulator may require the registered provider to implement a process specified by the regulator for the purpose of—

(a) inviting persons to apply to undertake management functions of the registered provider, and

(b) selecting from the applications and making an appointment.

(3) A requirement may relate to—

(a) the registered provider's affairs generally in so far as they relate to social housing, or

(b) specified affairs relating to social housing.

(4) 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 **[**[F19](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).

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F18 Words in s. 247(1)(a) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 64(2)**

F19 Words in s. 247(4)(b) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 64(3)**

Commencement Information

I142 S. 247 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

248 Section 247: supplemental

(1) Before acting under section 247(2) the regulator must give the registered provider a notice—

(a) specifying grounds on which action might be taken under that section,

(b) warning the provider that the regulator is considering action under that section, and

(c) explaining the effect of this section.

(2) The notice must specify a period during which the registered provider may make representations to the regulator.

(3) The period must—

(a) be a period of at least 28 days, and

(b) begin with the date on which the registered provider receives the notice.

(4) The regulator must send a copy of a notice under subsection (1) to—

(a) the HCA, and

(b) any other persons it thinks appropriate (having regard, in particular, to any person who provided information as a result of which the notice is given).

(5) A notice under subsection (1) must—

(a) refer to section 125 (voluntary undertaking), and

(b) indicate whether or to what extent the regulator would accept a voluntary undertaking instead of, or in mitigation of, action under section 247(2).

(6) Notice under subsection (1) may be combined with notice under one or more of sections 230, 242, 250 and 252.

(7) In imposing a requirement the regulator must have regard to views of—

(a) relevant tenants,

(b) the registered provider,

(c) the HCA, and

(d) if the regulator thinks it appropriate, any relevant local housing authority.

(8) If the regulator imposes a requirement it must send a copy to the HCA.

(9) A registered provider may appeal to the High Court against a requirement under section 247(2).

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

249 Management transfer

(1) This section applies if as a result of an inquiry under section 206 or an audit under section 210 the regulator is satisfied that—
  (a) the affairs of a registered provider have been mismanaged in relation to social housing, or
  (b) a transfer of certain of a registered provider's management functions would be likely to improve the management of some or all of its social housing.

(2) The regulator may require the registered provider to transfer management functions to a specified person.

(3) A requirement to transfer management functions may be imposed only with the Secretary of State's consent (both as to the transfer and the terms).

(4) A requirement may relate to—
  (a) the registered provider's affairs generally in so far as they relate to social housing, or
  (b) specified affairs relating to social housing.

(5) Transfer shall be on terms and conditions (including as to remuneration) specified in, or determined in accordance with, the requirement.

(6) A transferee manager shall have—
  (a) any power specified in the requirement, and
  (b) any other power in relation to the registered provider'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 provider).

250 Section 249: supplemental

(1) Before acting under section 249(2) the regulator must give the registered provider a notice—
  (a) specifying grounds on which action might be taken under that section,
  (b) warning the provider that the regulator is considering action under that section, and
  (c) explaining the effect of this section.

(2) The notice must specify a period during which the registered provider may make representations to the regulator.

(3) The period must—
  (a) be a period of at least 28 days, and
  (b) begin with the date on which the registered provider receives the notice.

(4) The regulator must send a copy of a notice under subsection (1) to—
  (a) the HCA, and
  (b) any other persons it thinks appropriate (having regard, in particular, to any person who provided information as a result of which the notice is given).

(5) A notice under subsection (1) must—
  (a) refer to section 125, and

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(b) indicate whether or to what extent the regulator would accept a voluntary undertaking under that section instead of, or in mitigation of, action under section 249(2).

(6) Notice under subsection (1) may be combined with notice under one or more of sections 230, 242, 248 and 252.

(7) In imposing a requirement the regulator must have regard to views of—
(a) relevant tenants,
(b) the registered provider,
(c) the HCA, and
(d) if the regulator thinks it appropriate, any relevant local housing authority.

(8) If the regulator imposes a requirement it must send a copy to the HCA.

(9) A registered provider may appeal to the High Court against a requirement under section 249(2).

251 Appointment of manager [F20of private registered provider]

(1) This section applies if the regulator is satisfied that—
(a) a **[**F21private registered provider**]** has failed to meet a standard under section 193 or 194, or
(b) the affairs of a **[**F22private registered provider**]** have been mismanaged in relation to social housing.

(2) The regulator may—
(a) appoint an individual as a manager of the registered provider, or
(b) require the registered provider to appoint an individual as a manager.

(3) An appointment or requirement may relate to a manager—
(a) of the registered provider's affairs generally in so far as they relate to social housing, or
(b) of specified affairs relating to social housing.

(4) Appointment shall be on terms and conditions (including as to remuneration) specified in, or determined in accordance with, the appointment or requirement.

(5) A manager shall have—
(a) any power specified in the appointment or requirement, and
(b) any other power in relation to the registered provider'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 provider).

Textual Amendments

F20 Words in s. 251(1)(b) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 68(b)**

F21 Words in s. 251(1)(a) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 68(a)**

F22 Words in s. 251(1)(b) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 68(a)**

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Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I143 S. 251 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

252 Section 251: supplemental

(1) Before acting under section 251(2) the regulator must give the registered provider a notice—

(a) specifying grounds on which action might be taken under that section,

(b) warning the provider that the regulator is considering action under that section, and

(c) explaining the effect of this section.

(2) The notice must specify a period during which the registered provider may make representations to the regulator.

(3) The period must—

(a) be a period of at least 28 days, and

(b) begin with the date on which the registered provider receives the notice.

(4) The regulator must send a copy of a notice under subsection (1) to—

(a) the HCA, and

(b) any other persons it thinks appropriate (having regard, in particular, to any person who provided information as a result of which the notice is given).

(5) A notice under subsection (1) must—

(a) refer to section 125 (voluntary undertaking), and

(b) indicate whether or to what extent the regulator would accept a voluntary undertaking instead of, or in mitigation of, action under section 251(2).

(6) Notice under subsection (1) may be combined with notice under one or more of sections 230, 242, 248 and 250.

(7) The regulator must notify the HCA of an appointment or requirement under section 251(2).

(8) The regulator may require a manager to report to the regulator on the affairs specified in the appointment or requirement under section 251(3).

(9) A registered provider may appeal to the High Court against an appointment or requirement under section 251(2).

253 Transfer of land [F23by private registered provider]

(1) This section applies if as a result of an inquiry under section 206 or an audit under section 210 the regulator is satisfied that—

(a) the affairs of a [F24private registered provider] have been mismanaged in relation to social housing, or

(b) a transfer of land by a [F25private registered provider] would be likely to improve the management of the land.

(2) The regulator may require the registered provider to transfer specified land—

(a) to the regulator, or

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(b) to another specified **[**[F26]private registered provider**]**.

(3) A requirement may be imposed on a profit-making registered provider only in relation to its social housing and associated land.

(4) For the purposes of subsection (3) land is associated with social housing if the regulator thinks that it is used in connection with the social housing or its management.

(5) A requirement may not be imposed on a non-profit registered provider requiring it to transfer land to a profit-making registered provider.

(6) A requirement may not be imposed on a registered charity.

(7) A requirement may be imposed on a charity which is not registered (C1), but only for transfer to another charity (C2) whose objects the regulator thinks are similar to those of C1.

Textual Amendments

F23 Words in s. 253 inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 71(c)**

F24 Words in s. 253(1)(a) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 71(a)**

F25 Words in s. 253(1)(b) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 71(a)**

F26 Words in s. 253(2)(b) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 71(b)**

Commencement Information

I144 S. 253 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

254 Section 253: supplemental

(1) A transfer under section 253 shall be on terms specified in, or determined in accordance with, the requirement.

(2) The price shall be not less than an amount certified by the district valuer as the amount the property would fetch if sold by a willing seller to another registered provider.

(3) The terms shall include provision as to the payment of any debts or liabilities in respect of the land (whether or not secured on it).

(4) A requirement to transfer land may be imposed only with the Secretary of State's consent (both as to the transfer and the terms).

(5) Where land is transferred to the regulator under section 253(2)(a)—

(a) the regulator may dispose of it only to a registered provider, and

(b) if it is transferred by a non-profit registered provider, the regulator may dispose of it only to a non-profit registered provider.

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255 Amalgamation

(1) This section applies if as a result of an inquiry under section 206 or an audit under section 210 the regulator is satisfied that—

(a) the affairs of a non-profit registered provider which is an industrial and provident society have been mismanaged in relation to social housing, or

(b) the management of social housing owned by a non-profit registered provider which is an industrial and provident society would be improved if the provider were amalgamated with another industrial and provident society.

(2) The regulator may make and execute on behalf of the society an instrument providing for the amalgamation of the society with another industrial and provident society.

(3) The regulator may act under subsection (2) only with the Secretary of State's consent.

(4) An instrument providing for the amalgamation of a society ("S1") with another has the same effect as a resolution by S1 under section 50 of the Industrial and Provident Societies Act 1965 (c. 12) (amalgamation of societies by special resolution).

(5) A copy of an instrument shall 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—

(a) must be registered by the regulator and designated as a non-profit organisation, and

(b) pending registration shall be treated as registered and designated as a non-profit organisation.

VALID FROM 01/04/2010

Restrictions on dealings [F27 by non-profit registered providers]

Textual Amendments

F27 Words in cross-heading before s. 256 inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 72**

256 Restrictions on dealings during inquiry

(1) The regulator may make an order under this section if—

(a) an inquiry under section 206 is in progress in respect of a non-profit registered provider, and

(b) either of the following cases applies.

(2) Case 1 applies if the regulator has reasonable grounds for believing—

(a) that the affairs of the registered provider have been mismanaged, and

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(b) that the interests of tenants of the registered provider, or its assets, require protection.

(3) Case 2 applies if as a result of an inquirer's interim report under section 207 the regulator is satisfied that the affairs of the registered provider have been mismanaged.

(4) The regulator may order a bank or other person who holds money or securities on behalf of the registered provider not to part with the money or securities without the regulator's consent.

(5) The regulator may make an order restricting—
(a) the transactions that may be entered into by the registered provider, or
(b) the nature and amounts of payments that may be made by it.

(6) An order under subsection (5) may in particular provide that transactions may not be entered into or payments made without the regulator's consent.

(7) The regulator may make an order in respect of a registered provider that is a registered charity only if it has received public assistance.

(8) An order ceases to have effect at the end of the period of 6 months beginning with the day on which the inquirer's final report under section 207 is made.

(9) But the regulator—
(a) may revoke the order before that time;
(b) may by order extend it for a specified period of up to 6 months.

Commencement Information
I145 S. 256 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

257 Restrictions on dealings following inquiry

(1) This section applies if as a result of an inquiry under section 206 or an audit under section 210 the regulator is satisfied that the affairs of a non-profit registered provider have been mismanaged.

(2) The regulator may order a bank or other person who holds money or securities on behalf of the registered provider not to part with the money or securities without the regulator's consent.

(3) The regulator may make an order restricting—
(a) the transactions that may be entered into by the registered provider, or
(b) the nature and amounts of payments that may be made by it.

(4) An order under subsection (3) may in particular provide that transactions may not be entered into or payments made without the regulator's consent.

(5) The regulator may make an order in respect of a registered provider that is a registered charity only if it has received public assistance.

(6) An order under this section has effect until revoked by the regulator.

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Commencement Information

I146 S. 257 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

258 Restrictions on dealings: supplemental

(1) Before making an order under section 256 or 257 the regulator must take all reasonable steps to give notice to—

(a) the registered provider, and

(b) in the case of an order under section 256(4) or 257(2), the person to whom the order is directed.

(2) Contravention of an order under section 256(4) or 257(2) is an offence.

(3) A person guilty of an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) Proceedings for an offence may be brought only by or with the consent of—

(a) the regulator, or

(b) the Director of Public Prosecutions.

Commencement Information

I147 S. 258 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

VALID FROM 01/04/2010

Suspension and removal of officers ***[****F28 of non-profit registered providers****]***

Textual Amendments

F28 Words in cross-heading before s. 259 inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844), art. 1(2), **Sch. 1 para. 73**

259 Suspension during inquiry

(1) The regulator may make an order under this section if—

(a) an inquiry under section 206 is in progress in respect of a non-profit registered provider, and

(b) either of the following cases applies.

(2) Case 1 applies if the regulator has reasonable grounds for believing—

(a) that the affairs of the registered provider have been mismanaged, and

(b) that the interests of tenants of the registered provider, or its assets, require protection.

(3) Case 2 applies if as a result of an inquirer's interim report under section 207 the regulator is satisfied that the affairs of the registered provider have been mismanaged.

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(4) The regulator may by order suspend any officer, employee or agent of the registered provider who it thinks has contributed to the failure or mismanagement.

(5) The regulator may suspend an officer, employee or agent of a registered charity only if the charity has received public assistance.

(6) An order ceases to have effect at the end of the period of 6 months beginning with the day on which the inquirer's final report under section 207 is made.

(7) But the regulator may revoke an order before the end of that period.

(8) The regulator shall notify the Charity Commission if it suspends an officer, employee or agent of a registered charity.

Commencement Information
I148 S. 259 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

260 Removal or suspension following inquiry

(1) This section applies if as a result of an inquiry under section 206 or an audit under section 210 the regulator is satisfied that the affairs of a non-profit registered provider have been mismanaged.

(2) The regulator may by order remove any officer, employee or agent of the registered provider who it thinks has contributed to the failure or mismanagement.

(3) Pending a decision whether to remove an officer, employee or agent, the regulator may by order suspend the person for a specified period of up to 6 months.

(4) The regulator may remove or suspend an officer, employee or agent of a registered charity only if the charity has received public assistance.

(5) Before making an order the regulator must take all reasonable steps to give at least 14 days' notice to—
   (a) the person, and
   (b) the registered provider.

(6) The regulator shall notify the Charity Commission if it removes or suspends an officer, employee or agent of a registered charity.

Commencement Information
I149 S. 260 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

261 Suspension under section 259 or 260: supplemental

(1) This section applies where the regulator suspends an officer, employee or agent of a registered provider under section 259 or 260.

(2) The regulator may give directions to the registered provider about—
   (a) the performance of the suspended person's functions, and
   (b) any other matter arising from the suspension.

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(3) The regulator may appoint a person to perform the suspended person's functions.

Commencement Information
I150 S. 261 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

262 Disqualification of removed person

(1) A person is disqualified from acting as an officer of a registered provider if the person has been removed under—
  (a) section 260, or
  (b) paragraph 24(2)(a) of Schedule 1 to the Housing Act 1996 (c. 52), section 30(1)(a) of the Housing Associations Act 1985 (c. 69) or section 20(1)(a) of the Housing Act 1974 (c. 44) (other similar provisions).

(2) The regulator may waive a disqualification either generally or in relation to a particular registered provider or class of registered providers.

(3) A waiver may be granted only on an application by the disqualified person.

(4) The regulator shall notify a person whose disqualification is waived.

(5) If a disqualified person acts as an officer of a registered provider, the person's acts are not invalid by reason only of the disqualification.

Commencement Information
I151 S. 262 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

263 Register of disqualified persons

(1) The regulator shall maintain a register of persons disqualified under section 262.

(2) The register must show details of any waivers.

(3) The regulator shall make the register available for inspection by the public.

Commencement Information
I152 S. 263 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

264 Acting while disqualified: offence

(1) It is an offence for a person to act as an officer of a registered provider in respect of which the person is disqualified under section 262.

(2) A person guilty of an offence is liable—
  (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both;
  (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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(3) Proceedings for an offence may be brought only by or with the consent of—
  (a) the regulator, or
  (b) the Director of Public Prosecutions.

(4) In relation to an offence committed before the commencement of section 282 of the Criminal Justice Act 2003 (c. 44) (short sentences) the reference in subsection (2)(a) to 12 months shall have effect as if it were a reference to 6 months.

Commencement Information
I153 S. 264 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

265 Acting while disqualified: other consequences

(1) This section applies where the regulator is satisfied that a person—
  (a) has acted as an officer of a registered provider in respect of which the person is disqualified under section 262, and
  (b) in doing so, has received payments or other benefits from the registered provider.

(2) The regulator may require the person to repay the sum or, as the case may be, a specified amount representing the whole or part of the value of the benefit.

(3) If a person fails to comply with a requirement the registered provider may recover the sum or specified amount as a debt.

Commencement Information
I154 S. 265 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

266 Removal of officers

(1) The regulator may by order remove an officer of a non-profit registered provider if a Case listed in this section applies to the officer.

(2) Case 1 applies to a person who has been adjudged bankrupt.

(3) Case 2 applies to a person who has made an arrangement with creditors.

(4) Case 3 applies to a person who is subject to a disqualification order or a disqualification undertaking under the Company Directors Disqualification Act 1986 (c. 46) or equivalent legislation in Northern Ireland.

(5) Case 4 applies to a person who is subject to an order under section 429(2) of the Insolvency Act 1986 (c. 45) (disabilities on revocation of county court administration order).

(6) Case 5 applies to a person who is disqualified under section 72 of the Charities Act 1993 (c. 10) from being a charity trustee.

(7) Case 6 applies to a person who is incapable of acting by reason of mental disorder.

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(8) Case 7 applies to a person who is impeding the proper management of the registered provider by reason of absence or failure to act.

Commencement Information
I155 S. 266 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

267 Section 266: supplemental

(1) Before making an order under section 266 in respect of an officer the regulator must take all reasonable steps to give at least 14 days' notice to—
  (a) the officer, and
  (b) the registered provider.

(2) An order may be made in respect of an officer of a registered charity only if the charity has received public assistance.

Commencement Information
I156 S. 267 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

268 Appeal against removal or suspension

A person removed or suspended under section 259, 260 or 266 may appeal to the High Court.

Commencement Information
I157 S. 268 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

269 Appointment of new officers

(1) The regulator may by order appoint a person as an officer of a non-profit registered provider—
  (a) to replace an officer removed by order under section 266,
  (b) where there are no officers, or
  (c) if the regulator thinks an additional officer is necessary for the proper management of the body's affairs.

(2) The regulator may appoint more than a minority of the officers of a registered provider only if—
  (a) the provider has fewer officers than required by its constitution, or
  (b) its constitution does not specify a minimum number of officers.

(3) Subsection (1) overrides any restriction on eligibility or numbers of officers imposed by the body's constitution.

(4) An order appointing an officer shall specify the period for which, and the terms on which, the office is to be held; but—

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(a) on expiry the regulator may by order renew the appointment, and
(b) the officer may resign or retire in accordance with the registered provider's constitution.

(5) An officer appointed by order has the same rights, powers and obligations as an officer appointed under the registered provider's constitution.

(6) The regulator may exercise the power in subsection (1) in respect of a registered charity only if—
(a) a condition in section 274 is satisfied, and
(b) the regulator has consulted the Charity Commission.

Commencement Information
I158 S. 269 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

CHAPTER 8

GENERAL

Interpretation

VALID FROM 01/04/2010

270 Officer

The Table gives the meaning of "officer" in relation to registered providers.

Registered provider	***Meaning of "officer"***
Registered charity which is not a registered company	Trustee, secretary or treasurer
Industrial and provident society	"Officer" within the meaning given by section 74 of the Industrial and Provident Societies Act 1965 (including a person co-opted to serve on the society's committee)
Registered company	"Officer" within the meaning given by section 1173 of the Companies Act 2006

VALID FROM 01/04/2010

271 Subsidiary and associate

(1) A company is a "subsidiary" of a person if any of the following conditions is satisfied.

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(2) Condition 1 is that the person—
- (a) is a member of the company, and
- (b) has power, independent of any other person, to appoint or remove all or a majority of the board of directors.

(3) Condition 2 is that the person holds more than half in nominal value of the company's equity share capital.

(4) Condition 3 is that the company is a subsidiary, within the meaning of the Companies Act 2006 (c. 46) or the Friendly and Industrial and Provident Societies Act 1968 (c. 55), of a company which is a subsidiary of the person by virtue of Condition 1 or 2.

(5) In relation to a company which is an industrial and provident society a reference to the board of directors is a reference to the committee of management.

(6) "Associate" of a provider means—
- (a) a body of which the provider is a subsidiary, and
- (b) any other subsidiary of that body.

VALID FROM 01/04/2010

272 Family

(1) For the purposes of this Part one person is a member of the family of another if—
- (a) they are, or live together as if they were, spouses or civil partners, or
- (b) one is the parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the other.

(2) For those purposes—
- (a) a relationship by marriage or civil partnership shall be treated as a relationship by blood (and, in particular, P's stepchild shall be treated as P's child), and
- (b) a relationship by half-blood shall be treated as a relationship by whole blood.

VALID FROM 01/04/2010

273 Disposal

(1) In this Part a reference to disposing of property is a reference to—
- (a) selling it,
- (b) leasing it,
- (c) mortgaging it,
- (d) making it subject to a charge, and
- (e) disposing of it, or of any interest in it, in any other way.

(2) Granting an option to require a disposal shall be treated as making a disposal.

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VALID FROM 01/04/2010

274 Charities that have "received public assistance"

(1) For the purposes of this Part a registered charity has received public assistance if at least one of the following conditions is satisfied.

(2) Condition 1 is that the charity has received financial assistance from the HCA under section 19.

(3) Condition 2 is that the charity has received financial assistance under section 24 of the Local Government Act 1988 (c. 9) (assistance for privately let housing accommodation).

(4) Condition 3 is that the charity has had housing transferred to it pursuant to—
- (a) a large scale disposal, within the meaning of section 34 of the Housing Act 1985 (c. 68), for which consent was required under section 32 or 43 of that Act, or
- (b) a qualifying disposal that was made under section 135 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28).

(5) Condition 4 is that the charity has received a grant or loan under—
- (a) section 18 of the Housing Act 1996 (c. 52) (social housing grants),
- (b) section 22 of that Act (assistance from local authorities),
- (c) section 58 of the Housing Associations Act 1985 (c. 69) (grants or loans by local authorities),
- (d) section 50 of the Housing Act 1988 (c. 50), section 41 of the Housing Associations Act 1985 or any enactment replaced by that section (housing association grant),
- (e) section 51 of the Housing Act 1988 (c. 50) or section 54 or 55 of the Housing Associations Act 1985 (c. 69) (revenue deficit grant or hostel deficit grant),
- (f) section 79 of the Housing Associations Act 1985 (loans by Housing Corporation),
- (g) section 31 of the Housing Act 1974 (c. 44) (management grants), or
- (h) any enactment mentioned in paragraph 2 or 3 of Schedule 1 to the Housing Associations Act 1985 (pre-1974 grants and certain loans).

275 General

In this Part, except where the context requires otherwise—

"action" includes inaction, proposed action and decision,

"assured agricultural occupancy" has the same meaning as in Part 1 of the Housing Act 1988,

"assured tenancy" has the same meaning as in that Part,

"the Charity Commission" means the Charity Commission for England and Wales,

"committee", in relation to an industrial and provident society, means the committee of management or other directing body of the society (including any person co-opted to serve on the committee, whether a member of the society or not),

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"consent" means written consent,

"constitution" includes rules,

"conveyance" includes grant, assignment and any other instrument,

"district valuer" has the meaning given by section 622 of the Housing Act 1985 (c. 68),

"dwelling"—

(a) means a house, flat or other building or part of a building occupied or intended to be occupied as a separate dwelling, and

(b) includes any garden, yard, outhouse or other appurtenance belonging to, or usually enjoyed with, the dwelling,

"the HCA" means the Homes and Communities Agency,

"industrial and provident society" means a society registered under the Industrial and Provident Societies Act 1965 (c. 12),

"local authority" has the same meaning as in the Housing Associations Act 1985,

"local housing authority" has the same meaning as in the Housing Act 1985,

"maintenance" includes repair,

"mismanagement", in relation to the affairs of a registered provider, means—

(a) managed in contravention of a provision of this Part or of anything done under this Part, or

(b) otherwise conducted improperly or inappropriately,

"non-registrable charity" means a charity which is not required to be registered, in accordance with section 3A of the Charities Act 1993 (c. 10),

"notice" means written notice (and to "notify" means to give written notice),

"preferential creditor" and "preferential debt" have the same meaning as in the Insolvency Act 1986 (c. 45),

"price" includes premium,

"registered charity" means a charity registered under the Charities Act 1993 (c. 10),

"registered company" means a company within the meaning of the Companies Act 2006 (c. 46),

"rent" includes payments under a licence to occupy accommodation,

"representations" means written representations,

"secure tenancy" has the same meaning as in Part 4 of the Housing Act 1985 (c. 68),

"secured creditor" means a creditor who holds a mortgage or charge (including a floating charge) over—

(a) land held by a registered provider, or

(b) a present or future interest of a registered provider in rents or other receipts from land,

"tenant" in relation to social housing includes other occupiers, and

"working day" means a day other than—

(a) a Saturday or Sunday,

(b) Christmas Day or Good Friday, or

(c) a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 (c. 80).

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Commencement Information

I159 S. 275 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

276 Index of defined terms

The Table lists expressions defined in this Part.

Expression	*Section*
Appointed member	Section 82
Associate	Section 271
Assured agricultural occupancy	Section 275
Assured tenancy	Section 275
Charity Commission	Section 275
Committee (industrial and provident society)	Section 275
Compensation notice	Section 240
Consent	Section 275
Constitution	Section 275
Conveyance	Section 275
Disposal	Section 273
District valuer	Section 275
Dwelling	Section 275
Enforcement notice	Sections 219 to 225
Equity percentage arrangements	Section 70(5)
Family	Section 272
Financial year	Section 104
Fundamental objectives	Section 86
The HCA	Section 275
Industrial and provident society	Section 275
Local authority	Section 275
Local housing authority	Section 275
Low cost home ownership accommodation	Section 70
Low cost rental accommodation	Section 69
Maintenance	Section 275
Mismanagement	Section 275

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Non-profit organisation	Section 115
Non-registrable charity	Section 275
Notice	Section 275
Officer	Section 270
Penalty notice	Section 228
Pre-compensation warning	Section 242
Pre-penalty warning	Section 230
Preferential creditor	Section 275
Preferential debt	Section 275
Price	Section 275
Profit-making organisation	Section 115
Provider (of social housing)	Section 80
Received public assistance (charities)	Section 274
Registered charity	Section 275
Registered company	Section 275
Registered provider (of social housing)	Section 80
The regulator	Section 81
The Regulator of Social Housing	Section 81
Rent	Section 275
Representations	Section 275
Secure tenancy	Section 275
Secured creditor	Section 275
Shared ownership arrangements	Section 70(4)
Shared ownership trust	Section 70(6)
Social housing	Section 68
Subsidiary	Section 271
Tenant	Section 275
Working day	Section 275

Commencement Information

I160 S. 276 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

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Miscellaneous

277 Consequential amendments

Schedule 9 (which contains amendments of enactments) has effect.

Commencement Information

I161 S. 277 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)**

I162 S. 277 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 3** (with arts. 6-13)

I163 S. 277 in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 8(1)**

VALID FROM 01/04/2010

278 Transitional

(1) The regulator shall include in the register under section 111 on its establishment anyone—

(a) who was registered under section 1 of the Housing Act 1996 (c. 52) (register of social landlords) immediately before section 61 came into force, and

(b) in relation to whom the Relevant Authority was the Housing Corporation (in accordance with section 56 of that Act).

(2) A person registered under this section shall be designated as a non-profit organisation.

[F29 278A Power to nominate for consultation purposes

(1) The Secretary of State may for the purposes of the following provisions of this Part nominate a body appearing to the Secretary of State to represent the interests of tenants of social housing in England—

(a) section 112(4);

(b) section 174(5);

(c) section 196(1);

(d) section 197(4);

(e) section 216.

(2) The Secretary of State must notify the regulator of any nomination (or withdrawal of any nomination) under this section.]

Textual Amendments

F29 S. 278A inserted (12.11.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 26(2)**, 148(1)(c)

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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PART 3

OTHER PROVISIONS

PROSPECTIVE

CHAPTER 1

SUSTAINABILITY CERTIFICATES

General

279 Certificates for new homes

(1) A person who is selling a residential property as a new property must supply the purchaser with—
  (a) a sustainability certificate, or
  (b) a written statement to the effect that there is no sustainability certificate for the property.

(2) If the seller is to supply a sustainability certificate, the seller must supply it before the sale is agreed if it is reasonably practicable to do so.

(3) If it is not reasonably practicable to do so, the seller must—
  (a) supply an interim certificate before the sale is agreed, and
  (b) supply the sustainability certificate at such time, or within such period, as may be prescribed.

(4) If the seller is to supply a statement, the seller must supply it before the sale is agreed.

(5) The appropriate national authority may by regulations require sellers to supply certificates or statements to purchasers earlier than required by subsection (2), (3)(a) or (4).

(6) The appropriate national authority may by regulations provide for exceptions from any duty imposed by virtue of subsections (1) to (5) in such cases and circumstances, and to such extent, as may be specified in the regulations.

(7) Regulations under subsection (6) may impose alternative duties in relation to the supply of certificates or statements.

(8) The seller is not required to comply with a requirement imposed by virtue of this section if the seller has a reasonable excuse for not complying with the requirement.

(9) The seller may not charge for supplying a certificate or statement by virtue of this section.

(10) The power conferred by subsection (3)(b) may, in particular, be exercised so as to prescribe a time, or a period which ends, after the completion of the sale.

(11) In this Chapter—
  "interim certificate" means a document which—

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(a) contains an interim assessment of the sustainability of a residential property, and
(b) complies with the requirements of regulations under this Chapter,

"sustainability certificate" means a document which—
(a) contains a final assessment of the sustainability of a residential property, and
(b) complies with the requirements of regulations under this Chapter.

280 Meaning of sustainability

(1) For the purposes of this Chapter the sustainability of a residential property relates to the extent to which—
(a) the materials used in the property,
(b) other aspects of the design and construction of the property, and
(c) any services, fittings and equipment provided in, or in connection with, the property,

meet any sustainability standards.

(2) Sustainability standards are standards prescribed by the appropriate national authority for any of the following purposes—
(a) ensuring the health, safety, welfare and convenience of persons in or about the property and of others who may be affected by the property or matters connected with it,
(b) furthering the efficient management of the property and of its construction,
(c) furthering energy efficiency,
(d) furthering the efficient use of water and minimising flood risk,
(e) furthering efficient waste management,
(f) furthering the protection or enhancement of the environment, and
(g) furthering the prevention or detection of crime.

(3) The appropriate national authority may by regulations amend subsection (2) so as to add, remove or alter purposes for the time being contained there.

(4) The references in this section to the construction of the property include references to any related demolition and any off-site activities relating to the construction or demolition.

281 Authorised assessors

(1) The assessment of the sustainability of a residential property is to be carried out for the purposes of this Chapter by an authorised assessor.

(2) The appropriate national authority may by regulations make provision about authorised assessors.

(3) The regulations must specify the persons or descriptions of persons who are to be authorised assessors.

(4) Subsections (5) to (9) apply if regulations under subsection (2) provide for authorised assessors to be persons accredited under an approved accreditation scheme.

(5) The regulations may make provision about accreditation schemes.

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(6) The regulations may, in particular, provide for—
- (a) the approval by the appropriate national authority of one or more accreditation schemes (whether established by the appropriate national authority or another person),
- (b) the withdrawal by the appropriate national authority of any such approval,
- (c) the charging of fees under accreditation schemes.

(7) Any regulations of the kind mentioned in subsection (6)(a) must require the appropriate national authority to be satisfied, before approving an accreditation scheme, that the scheme contains appropriate provision—
- (a) for ensuring that members of the scheme are fit and proper persons who are qualified (by their education, training and experience) to carry out assessments,
- (b) for ensuring that a code of conduct for members of the scheme is maintained and published,
- (c) for ensuring that members of the scheme have in force suitable indemnity insurance,
- (d) for facilitating the resolution of complaints against members of the scheme,
- (e) for requiring certificates or other documents given by members of the scheme to be entered on a register under section 282,
- (f) for the keeping of a public register of the members of the scheme, and
- (g) for such other purposes as may be specified in the regulations.

(8) Subsection (7) does not limit the matters which the regulations may require the appropriate national authority to be satisfied about before approving an accreditation scheme.

(9) Regulations under subsection (5) may, in particular, require or authorise an approved accreditation scheme to contain provision about any matter relating to sustainability certificates or other documents with which the scheme is concerned (including the terms on which members of the scheme may undertake to produce such documents).

282 Register of certificates

(1) The appropriate national authority may by regulations make provision about a register of sustainability certificates.

(2) The regulations may, in particular, make provision of the kind mentioned in subsections (3) to (7).

(3) The regulations may provide for a register to be kept—
- (a) by (or on behalf of) the appropriate national authority, or
- (b) by such other person as the regulations may specify or describe.

(4) The regulations may require a person wishing to enter a document onto a register to pay such fee as may be prescribed.

(5) No person may disclose—
- (a) a register or any document (or part of a document) contained in it, or
- (b) any information contained in, or derived from, a register,

except in accordance with any provision of the regulations which authorises or requires such a disclosure to be made.

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(6) The regulations may make provision as to circumstances in which, or purposes for which, a person or a person of a prescribed description—

(a) may (on payment of such fee, if any, as may be prescribed)—

(i) inspect a register or any document (or part of a document) contained in it,

(ii) take or be given copies of a register or any document (or part of a document) contained in it, or

(iii) be given information contained in, or derived from, a register, or

(b) may disclose anything obtained by virtue of provision made under paragraph (a).

(7) The purposes which may be so prescribed may be public purposes or purposes of private undertakings or other persons.

(8) A person who contravenes subsection (5) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(9) The appropriate national authority may by regulations provide for interim certificates or other documents to be included on a register.

(10) In such a case, subsections (1) to (8) apply in relation to the interim certificates or other documents concerned as they apply in relation to sustainability certificates.

Enforcement

283 Enforcement authorities

(1) Every local weights and measures authority is an enforcement authority for the purposes of this Chapter.

(2) It is the duty of each enforcement authority to enforce in its area the duties imposed by virtue of section 279.

284 Power to require production of certificates or statements

(1) Subsection (2) applies if an authorised officer of an enforcement authority believes that a person is, or has been, subject to a duty imposed by virtue of section 279 to supply a certificate or statement in relation to a particular property.

(2) The officer may require the person to produce for inspection a copy of the certificate or statement.

(3) The power conferred by subsection (2) includes power—

(a) to require the production of a legible hard copy of any certificate or statement which is held in electronic form, and

(b) to take copies of any hard copy produced for inspection.

(4) A requirement under this section may not be imposed more than 6 months after the last day for supplying the certificate or statement concerned in pursuance of the duty imposed by virtue of section 279.

(5) A person is not required to comply with a requirement under this section if the person has a reasonable excuse for not complying with the requirement.

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(6) Subject to this, a person subject to such a requirement must comply with it within the period of 7 days beginning with the day after that on which it is imposed.

285 Penalty charge notices

(1) An authorised officer of an enforcement authority may give a penalty charge notice to a person if the officer believes that the person has committed a breach of—
  (a) any duty imposed by virtue of section 279, or
  (b) any duty under section 284.

(2) A penalty charge notice may not be given after the end of the period of 6 months beginning with the day (or, in the case of a continuing breach, the last day) on which the breach of duty was committed.

(3) Schedule 10 (which makes further provision about penalty charge notices) has effect.

286 Offences relating to enforcement officers

(1) A person who, without reasonable excuse, obstructs an officer of an enforcement authority who is acting in pursuance of duties imposed by virtue of this Chapter is guilty of an offence.

(2) A person who, not being an authorised officer of an enforcement authority, purports to act as such in pursuance of section 284 or 285 is guilty of an offence.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Supplementary

287 Grants

(1) The appropriate national authority may make grants towards expenditure incurred by any person in connection with the development of proposals for, or the operation of—
  (a) a register under section 282, or
  (b) accreditation schemes or any other provision which may be made by regulations under this Chapter.

(2) A grant under this section may be made on conditions, which may include (among other things)—
  (a) conditions as to the purposes for which the grant or any part of it may be used, and
  (b) conditions requiring the repayment (with or without interest) of the grant or any part of it in such circumstances as may be specified in the conditions.

288 Suspension of duties

(1) The appropriate national authority may by regulations suspend (or later revive) the operation of any duty imposed by virtue of section 279.

(2) Such regulations may provide for the suspension of a duty to take effect only for a period specified in the regulations.

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(3) A duty which is (or is to any extent) revived after being suspended may be suspended again.

289 Disclosure of certificates etc.

(1) The appropriate national authority may by regulations make provision about the disclosure of—
- (a) sustainability certificates, interim certificates or statements of the kind mentioned in section 279(1)(b),
- (b) copies of any such documents,
- (c) any information contained in, or derived from, any such documents or copies, or
- (d) any information collected by an authorised assessor for the purposes of preparing a sustainability certificate or an interim certificate.

(2) A person who, without reasonable excuse, discloses anything whose disclosure is prohibited by regulations under subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

290 General powers to make regulations

(1) The appropriate national authority may by regulations make such provision as the authority considers appropriate—
- (a) for the general purposes, or any particular purpose, of this Chapter,
- (b) in consequence of any provision made by virtue of this Chapter or for giving full effect to it.

(2) Such regulations may, in particular, provide for—
- (a) the form and content of sustainability certificates and interim certificates,
- (b) the form and content of written statements of the kind mentioned in section 279(1)(b),
- (c) ways in which sustainability standards may be met,
- (d) the issue of guidance for the purposes of this Chapter,
- (e) the relationship between any provision made by virtue of this Chapter and any provision [F30]... in relation to energy performance certificates.

(3) Regulations made by virtue of subsection (2)(a) or (b) may, in particular, provide for the form or content of the documents concerned to be such as may be approved by the appropriate national authority.

(4) In subsection (2)(e) "energy performance certificate" has the same meaning as in the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (S.I. 2007/991) (see regulation 2(1)) or any corresponding subsequent regulations.

Textual Amendments

F30 Words in s. 290(2)(e) repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(1)(k), Sch. 18 para. 3, **Sch. 25 Pt. 29**

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291 Powers to extend Chapter

(1) The appropriate national authority may by regulations provide for this Chapter to apply, with or without prescribed modifications, to—
  (a) buildings which are not residential properties, or
  (b) prescribed descriptions of buildings falling within paragraph (a),
as it applies to residential properties.

(2) The appropriate national authority may by regulations provide for this Chapter to apply, with or without prescribed modifications, to—
  (a) newly converted residential properties,
  (b) newly converted buildings which are not residential properties, or
  (c) prescribed descriptions of residential properties falling within paragraph (a) or buildings falling within paragraph (b),
as it applies to new residential properties.

(3) For the purposes of this Chapter a residential property or other building is newly converted if—
  (a) it has been converted but has never been used for its intended purpose,
  (b) it is being converted, or
  (c) its conversion is being designed.

(4) The appropriate national authority may by regulations provide for circumstances in which a residential property or other building is to be treated as having been converted.

(5) The references in subsections (1)(a) and (b), (2)(b) and (c) and (3) and (4) to buildings include references to—
  (a) ancillary land, and
  (b) buildings and ancillary land which are being designed or constructed or are to be constructed.

(6) The appropriate national authority may by regulations amend the definition of "purchaser" in section 292(1).

(7) Regulations under subsection (6)—
  (a) must ensure that the descriptions of persons falling within the definition on the passing of this Act continue to fall within the definition (but this is without prejudice to the power to amend the text of the definition), and
  (b) may, in particular, ensure that descriptions of persons who are taking steps with a view to deciding whether to purchase residential properties are included within the definition.

292 Chapter 1: interpretation etc.

(1) In this Chapter—

"ancillary land", in relation to a building, means any land intended to be occupied and enjoyed together with the building,

"appropriate national authority" means—
  (a) in relation to England, the Secretary of State, and
  (b) in relation to Wales, the Welsh Ministers,

"building" includes part of a building,

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"modifications" includes omissions,

"prescribed" means prescribed by regulations made by the appropriate national authority,

"purchase", in relation to a residential property, means acquire, or agree to acquire, by way of purchase a relevant interest in the property,

"purchaser", in relation to a residential property, means a person who has—

(a) made an offer to purchase it, or

(b) purchased it,

"relevant interest", in relation to a residential property, means—

(a) the freehold interest in the property,

(b) such leasehold interests as may be prescribed, or

(c) an option to acquire the freehold interest or any such prescribed leasehold interest,

"residential property" means a building which is, or is intended to be, occupied as a separate dwelling (including one that is being designed or constructed or is to be constructed) and includes any ancillary land, but it does not include a newly converted residential property,

"sell", in relation to a residential property, means—

(a) dispose, or agree to dispose, by way of sale of a relevant interest in the property, or

(b) offer such an interest for sale,

"sustainability", in relation to residential properties, is to be read in accordance with section 280.

(2) Any reference in subsection (1) or (5) to the disposal of a relevant interest includes a reference to the creation of such an interest.

(3) For the purposes of this Chapter a person who is selling a residential property is to be treated as selling it as a new property if, at the time in question—

(a) the property is being designed,

(b) the property is being constructed, or

(c) the construction of the property has been finished but the property has never been occupied as a dwelling.

(4) For the purposes of this Chapter, the construction of a residential property is to be treated as finished if the property—

(a) is wind and weather proof,

(b) is safe and sanitary for any occupiers or visitors,

(c) has facilities for the supply of space heating, hot and cold water and electricity,

(d) has washing and drainage facilities, and

(e) meets any other prescribed requirements.

(5) For the purposes of this Chapter a sale is agreed—

(a) in the case of a legally binding agreement to dispose by way of sale, when the agreement is entered into, and

(b) in the absence of such an agreement, when the disposal is made.

(6) Any requirement imposed by virtue of section 279 to supply a certificate or statement—

(a) may be met by supplying a copy of the certificate or statement, and

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(b) may be met by supplying the certificate or statement (or copy) in electronic form if the intended recipient consents to receiving it in that form.

(7) For the purposes of this Chapter a certificate, statement or copy supplied in electronic form is only to be treated as being received if the recipient is readily able (using equipment available to the recipient)—

(a) to view the document in a form that is legible, and

(b) to produce hard copies of it in a legible form.

(8) The sale or purchase of a residential property is not invalid merely because of a failure to comply with any requirement imposed by virtue of this Chapter.

293 Index of defined expressions: Chapter 1

In this Chapter, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions listed in the right-hand column.

Expression	***Provision***
Agreed (in relation to a sale)	Section 292(5)
Ancillary land	Section 292(1)
Appropriate national authority	Section 292(1)
Building	Section 292(1)
Enforcement authority	Section 283(1)
Finished (in relation to construction of residential property)	Section 292(4)
Interim certificate	Section 279(11)
Modifications	Section 292(1)
Newly converted	Section 291(3)
Prescribed	Section 292(1)
Purchase	Section 292(1)
Purchaser	Section 292(1)
Relevant interest	Section 292(1)
Residential property	Section 292(1)
Sell	Section 292(1)
Sell as new property	Section 292(3)
Supply (in relation to certificates or statements)	Section 292(6) and (7)
Sustainability	Section 280
Sustainability certificate	Section 279(11)

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CHAPTER 2

LANDLORD AND TENANT MATTERS

Tenant empowerment

PROSPECTIVE

294 Ballots before certain disposals to private landlords

(1) Schedule 3A to the Housing Act 1985 (c. 68) (consultation before disposal to private sector landlord) is amended as follows.

(2) After paragraph 3(3) insert—

"(4) When a notice has been served under sub-paragraph (3) the authority shall arrange a ballot of the tenants in accordance with sub-paragraph (5) to establish whether or not the tenants wish the disposal to proceed.

(5) The authority shall—

(a) make arrangements for such person as they consider appropriate to conduct the ballot in such manner as that person considers appropriate; or

(b) conduct the ballot themselves.

(6) After the ballot has been held the authority shall serve a notice on each tenant (whether or not he voted in the ballot) informing him—

(a) of the ballot result; and

(b) if the authority intend to proceed with the disposal, that he may within 28 days after the service of the notice make representations to the Secretary of State or (as the case may be) the Welsh Ministers."

(3) In paragraph 5(1)—

(a) for "it appears to him" substitute " the result of a ballot arranged under paragraph 3(4) shows ", and

(b) after "relates" insert " who voted in the ballot ".

(4) After paragraph 5 insert—

5A "**Guidance**

(1) The appropriate person must give guidance to local authorities about complying with the requirements of paragraph 3 as to consultation.

(2) The appropriate person must publish guidance given under this paragraph as soon as reasonably practicable after giving it.

(3) Local authorities must, in complying with the requirements of paragraph 3 as to consultation, have regard to the guidance for the time being in force under this paragraph.

(4) The appropriate person may revoke guidance given under this paragraph.

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(5) References in this paragraph to giving guidance include references to giving guidance by varying existing guidance.

(6) In this paragraph "the appropriate person" means—

(a) in relation to England, the Secretary of State, and

(b) in relation to Wales, the Welsh Ministers."

(5) Subsections (2) to (4) do not apply to consultations begun before the coming into force of those subsections.

(6) For the purposes of subsection (5) a consultation has begun when a notice has been served under paragraph 3(2) of Schedule 3A to the Act of 1985.

295 Management agreements: extending requirements to co-operate

(1) Section 27AB of the Housing Act 1985 (c. 68) (management agreements with tenant management organisations) is amended as follows.

(2) In subsection (2), after paragraph (b), insert—

"(ba) to provide to the organisation such information or descriptions of information, in connection with the proposal, as may be prescribed in the regulations;

(bb) to take, in circumstances prescribed in the regulations, such other steps as may be so prescribed to co-operate with the organisation in connection with the proposal;".

(3) In subsection (4)—

(a) in paragraph (a) after "authority" insert " or the person making the regulations ",

(b) after paragraph (b), insert—

"(ba) setting time-limits for the carrying out of requirements under the regulations;", and

(c) in paragraph (c) after "guidance" insert " or directions ".

Commencement Information

I164 S. 295 in force at 1.12.2008 for E. by S.I. 2008/3068, **art. 4(1)(a)** (with arts. 6-13)

296 Requirements to co-operate in relation to certain disposals of land

After section 34 of the Housing Act 1985 (c. 68) (consents in relation to disposals of land held for housing purposes) insert—

"**34A Requirements to co-operate in relation to certain disposals**

(1) The appropriate person may make regulations for imposing requirements on a local housing authority in any case where a tenant group serves written notice on the authority proposing that the authority should dispose of particular land held by them for the purposes of this Part, or a particular description of such land, to a relevant housing provider.

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(2) The regulations may make provision requiring the authority—

(a) to provide, or finance the provision of, such office accommodation and facilities, and such training, as the tenant group reasonably requires for the purpose of pursuing the proposal;

(b) to arrange for such feasibility studies with respect to the proposal as may be determined by or under the regulations to be conducted by such persons as may be so determined;

(c) to provide to the tenant group such information or descriptions of information, in connection with the proposal, as may be prescribed in the regulations;

(d) to take, in circumstances prescribed in the regulations, such other steps as may be so prescribed to co-operate with the tenant group in connection with the proposal;

(e) to arrange for such ballots or polls with respect to the proposal as may be determined by or under the regulations to be conducted by such persons as may be so determined; and

(f) in such circumstances as may be prescribed by the regulations, to enter into an agreement for the disposal.

(3) The regulations may make provision—

(a) for determining the houses and other land to which the disposal should relate, and the amounts which should be paid in respect of the disposal;

(b) requiring the agreement for the disposal to be in such form as may be approved by the appropriate person and to contain such provisions as may be prescribed by the regulations.

(4) The regulations may make such procedural, incidental, supplementary and transitional provisions as may appear to the appropriate person necessary or expedient, and may in particular make provision—

(a) for particular questions arising under the regulations to be determined by the authority or the appropriate person;

(b) setting time-limits for the carrying out of requirements under the regulations;

(c) requiring any person exercising functions under the regulations to act in accordance with any guidance or directions given by the appropriate person.

(5) Nothing in subsections (2) to (4) is to be taken as prejudicing the generality of subsection (1).

(6) Any regulations which provide for the appropriate person to approve a proposal for a local housing authority to dispose of land must ensure that the authority has the opportunity to make representations to the appropriate person before the appropriate person decides whether or not to approve the proposal.

(7) This section does not affect any requirement under section 32 or 33 for the consent of the Secretary of State or the Welsh Ministers.

(8) Regulations under this section—

(a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas; and

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(b) are to be made by statutory instrument which—

(i) in the case of an instrument made by the Secretary of State, is subject to annulment in pursuance of a resolution of either House of Parliament; and

(ii) in the case of an instrument made by the Welsh Ministers, is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(9) In this section—

"appropriate person" means—

(a) in relation to England, the Secretary of State; and

(b) in relation to Wales, the Welsh Ministers;

"relevant housing provider" means—

(a) in relation to England, a registered provider of social housing; and

(b) in relation to Wales, a registered social landlord; and

"tenant group" means a body or other person which satisfies such conditions as may be determined by or under the regulations."

Commencement Information

I165 S. 296 in force at 1.12.2008 for E. by S.I. 2008/3068, **art. 4(1)(b)** (with arts. 6-13)

Family intervention tenancies

297 Family intervention tenancies: general

(1) In Schedule 1 to the Housing Act 1985 (c. 68) (tenancies which are not secure tenancies) after paragraph 4 insert—

"**Family intervention tenancies**

4ZA (1) A tenancy is not a secure tenancy if it is a family intervention tenancy.

(2) But a tenancy mentioned in sub-paragraph (1) becomes a secure tenancy if the landlord notifies the tenant that it is to be regarded as a secure tenancy.

(3) In this paragraph "a family intervention tenancy" means, subject to sub-paragraph (4), a tenancy granted by a local housing authority in respect of a dwelling-house—

(a) to a person ("the new tenant") against whom a possession order under section 84 in respect of another dwelling-house—

(i) has been made, in relation to a secure tenancy, on ground 2 or 2A of Part 1 of Schedule 2;

(ii) could, in the opinion of the authority, have been so made in relation to such a tenancy; or

(iii) could, in the opinion of the authority, have been so made if the person had had such a tenancy; and

(b) for the purposes of the provision of behaviour support services.

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(4) A tenancy is not a family intervention tenancy for the purposes of this paragraph if the local housing authority has failed to serve a notice under sub-paragraph (5) on the new tenant before the new tenant entered into the tenancy.

(5) A notice under this sub-paragraph is a notice stating—
- (a) the reasons for offering the tenancy to the new tenant;
- (b) the dwelling-house in respect of which the tenancy is to be granted;
- (c) the other main terms of the tenancy (including any requirements on the new tenant in respect of behaviour support services);
- (d) the security of tenure available under the tenancy and any loss of security of tenure which is likely to result from the new tenant agreeing to enter into the tenancy;
- (e) that the new tenant is not obliged to enter into the tenancy or (unless otherwise required to do so) to surrender any existing tenancy or possession of a dwelling-house;
- (f) any likely action by the local housing authority if the new tenant does not enter into the tenancy or surrender any existing tenancy or possession of a dwelling-house.

(6) The appropriate national authority may by regulations made by statutory instrument amend sub-paragraph (5).

(7) A notice under sub-paragraph (5) must contain advice to the new tenant as to how the new tenant may be able to obtain assistance in relation to the notice.

(8) The appropriate national authority may by regulations made by statutory instrument make provision about the type of advice to be provided in such notices.

(9) Regulations under this paragraph may contain such transitional, transitory or saving provision as the appropriate national authority considers appropriate.

(10) A statutory instrument containing (whether alone or with other provision) regulations under this paragraph which amend or repeal any of paragraphs (a) to (f) of sub-paragraph (5) may not be made—
- (a) by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament; and
- (b) by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(11) Subject to this, a statutory instrument containing regulations made under this paragraph—
- (a) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament; and
- (b) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

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(12) In this paragraph—

"appropriate national authority"—

(a) in relation to England, means the Secretary of State; and

(b) in relation to Wales, means the Welsh Ministers;

"behaviour support agreement" means an agreement in writing about behaviour and the provision of support services made between the new tenant and the local housing authority concerned (or between persons who include those persons);

"behaviour support services" means relevant support services to be provided by any person to—

(a) the new tenant; or

(b) any person who is to reside with the new tenant;

for the purpose of addressing the kind of behaviour which led to the new tenant falling within sub-paragraph (3)(a);

"family intervention tenancy" has the meaning given by sub-paragraph (3);

"the new tenant" has the meaning given by sub-paragraph (3)(a);

"relevant support services" means support services of a kind identified in a behaviour support agreement and designed to meet such needs of the recipient as are identified in the agreement."

(2) In Part 1 of Schedule 1 to the Housing Act 1988 (c. 50) (tenancies which cannot be assured tenancies) after paragraph 12 insert—

"**Family intervention tenancies**

12ZA (1) A family intervention tenancy.

(2) But a family intervention tenancy becomes an assured tenancy if the landlord notifies the tenant that it is to be regarded as an assured tenancy.

(3) In this paragraph "a family intervention tenancy" means, subject to sub-paragraph (4), a tenancy granted by a registered provider of social housing or a registered social landlord ("the landlord") in respect of a dwelling-house—

(a) to a person ("the new tenant") against whom a possession order under section 7 in respect of another dwelling-house—

(i) has been made, in relation to an assured tenancy, on ground 14 or 14A of Part 2 of Schedule 2;

(ii) could, in the opinion of the landlord, have been so made in relation to such a tenancy; or

(iii) could, in the opinion of the landlord, have been so made if the person had had such a tenancy; and

(b) for the purposes of the provision of behaviour support services.

(4) A tenancy is not a family intervention tenancy for the purposes of this paragraph if the landlord has failed to serve a notice under sub-paragraph (5) on the new tenant before the new tenant entered into the tenancy.

(5) A notice under this sub-paragraph is a notice stating—

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(a) the reasons for offering the tenancy to the new tenant;
(b) the dwelling-house in respect of which the tenancy is to be granted;
(c) the other main terms of the tenancy (including any requirements on the new tenant in respect of behaviour support services);
(d) the security of tenure available under the tenancy and any loss of security of tenure which is likely to result from the new tenant agreeing to enter into the tenancy;
(e) that the new tenant is not obliged to enter into the tenancy or (unless otherwise required to do so) to surrender any existing tenancy or possession of a dwelling-house;
(f) any likely action by the landlord if the new tenant does not enter into the tenancy or surrender any existing tenancy or possession of a dwelling-house.

(6) The appropriate national authority may by regulations made by statutory instrument amend sub-paragraph (5).

(7) A notice under sub-paragraph (5) must contain advice to the new tenant as to how the new tenant may be able to obtain assistance in relation to the notice.

(8) The appropriate national authority may by regulations made by statutory instrument make provision about the type of advice to be provided in such notices.

(9) Regulations under this paragraph may contain such transitional, transitory or saving provision as the appropriate national authority considers appropriate.

(10) A statutory instrument containing (whether alone or with other provision) regulations under this paragraph which amend or repeal any of paragraphs (a) to (f) of sub-paragraph (5) may not be made—
(a) by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament; and
(b) by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(11) Subject to this, a statutory instrument containing regulations made under this paragraph—
(a) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament; and
(b) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(12) In this paragraph—
"appropriate national authority"—
(a) in relation to England, means the Secretary of State; and
(b) in relation to Wales, means the Welsh Ministers;
"behaviour support agreement" means an agreement in writing about behaviour and the provision of support services made between

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the new tenant, the landlord and the local housing authority for the district in which the dwelling-house which is to be subject to the new tenancy is situated (or between persons who include those persons);

"behaviour support services" means relevant support services to be provided by any person to—

(a) the new tenant; or

(b) any person who is to reside with the new tenant;

for the purpose of addressing the kind of behaviour which led to the new tenant falling within sub-paragraph (3)(a);

"family intervention tenancy" has the meaning given by sub-paragraph (3);

"landlord" has the meaning given by sub-paragraph (3);

"local housing authority" (and the reference to its district) has the same meaning as in the Housing Act 1985 (see sections 1 and 2(1) of that Act);

"the new tenant" has the meaning given by sub-paragraph (3)(a);

"registered social landlord" has the same meaning as in Part 1 of the Housing Act 1996;

"relevant support services" means support services of a kind identified in a behaviour support agreement and designed to meet such needs of the recipient as are identified in the agreement."

(3) This section does not apply to any tenancy granted before the coming into force of this section.

Commencement Information

I166 S. 297 in force at 1.1.2009 for E. by S.I. 2008/3068, **art. 4(11)** (with arts. 6-13)

298 Certain family intervention tenancies: termination

(1) A local housing authority must not serve a notice to quit on the tenant of a family intervention tenancy unless—

(a) the authority has served a notice under subsection (2) on the tenant, and

(b) either—

(i) the tenant has not requested a review of the kind mentioned in subsection (2)(e) within the period of 14 days beginning with the service of the notice,

(ii) any such request has been withdrawn, or

(iii) the authority has served a notice on the tenant under subsection (4)(b).

(2) A notice under this subsection is a notice in writing stating—

(a) that the authority has decided to serve a notice to quit on the tenant,

(b) the effect of serving a notice to quit,

(c) the reasons for the authority's decision,

(d) when the authority is intending to serve the notice to quit, and

(e) that the tenant has the right to request, within the period of 14 days beginning with the service of the notice under this subsection, a review of the authority's decision.

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(3) Subsection (4) applies if the tenant requests a review of the kind mentioned in subsection (2)(e) within the period of 14 days beginning with the service of the notice under subsection (2) and the request is not withdrawn.

(4) The local housing authority must—

(a) review its decision to serve a notice to quit on the tenant, and

(b) serve a notice on the tenant informing the tenant of the decision of the authority on the review and the reasons for it.

(5) The appropriate national authority may by regulations make provision about the procedure to be followed in connection with such a review.

(6) Regulations under subsection (5) may, in particular—

(a) specify the description of person who is to make the decision on a review,

(b) specify the circumstances in which the tenant is entitled to an oral hearing on a review,

(c) specify whether, and by whom, the tenant is entitled to be represented at such a hearing.

(7) A notice under subsection (2), and a notice to quit, served by a local housing authority in respect of a family intervention tenancy must contain advice to the tenant as to how the tenant may be able to obtain assistance in relation to the notice.

(8) The appropriate national authority may by regulations make provision about the type of advice to be provided in such notices.

(9) In this section—

"appropriate national authority" means—

(a) in relation to England, the Secretary of State, and

(b) in relation to Wales, the Welsh Ministers,

"family intervention tenancy" has the same meaning as in paragraph 4ZA of Schedule 1 to the Housing Act 1985 (c. 68),

and other expressions used in this section and in paragraph 4ZA of that Schedule have the same meaning as in that paragraph.

(10) This section does not apply to any tenancy granted before the coming into force of this section.

Commencement Information

I167 S. 298(1)-(4) (7) (10) in force at 1.1.2009 for E. by S.I. 2008/3068, **art. 4(11)** (with arts. 6-13)

I168 S. 298(5)(6)(8)(9) in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(3)** (with arts. 6-13)

I169 S. 298(5)(6)(8)(9) in force at 1.1.2009 for E. in so far as not already in force by S.I. 2008/3068, **art. 4(11)** (with arts. 6-13)

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Possession orders

299 Possession orders relating to certain tenancies

Schedule 11 (which makes provision about possession orders and their effect on secure tenancies, assured tenancies, introductory tenancies and demoted tenancies including provision about the status of existing occupiers) has effect.

Commencement Information

I170 S. 299 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(4)** (with arts. 6-13)

I171 S. 299 in force at 20.5.2009 for specified purposes by S.I. 2009/1261, **art. 2**

Leasehold enfranchisement

VALID FROM 07/09/2009

300 Right to acquire freehold: abolition of low rent test

(1) In section 1(1) of the Leasehold Reform Act 1967 (c. 88) (right to enfranchisement or extension of long leaseholds)—

(a) in paragraph (a) omit "at a low rent",

(b) before "and" at the end of paragraph (a) insert—

"(aa) in the case of a right to acquire an extended lease, his long tenancy is a tenancy at a low rent;", and

(c) in paragraph (b) after "he has" insert "—

(i) in the case of a right to acquire the freehold, been tenant of the house under a long tenancy for the last two years; and

(ii) in the case of a right to acquire an extended lease,".

(2) In that Act—

(a) in section 1(1A) (excluded tenancies)—

(i) for "subsection (1)(a) and (b)" substitute " subsection (1) ", and

(ii) omit "at a low rent", and

(b) omit—

(i) section 1A(2) (certain deemed low rent tenancies),

(ii) section 1AA (additional right to enfranchisement where tenancy not low rent tenancy), and

(iii) section 4A (alternative rent limits for purposes of section 1A(2)).

301 Shared ownership leases: protection for certain leases

(1) After paragraph 3 of Schedule 4A to the Leasehold Reform Act 1967 (exclusion from enfranchisement for certain shared ownership leases granted by housing associations) insert—

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"3A (1) A lease which does not fall within paragraph 3 is excluded from the operation of this Part of this Act if the lease—

(a) meets the conditions mentioned in sub-paragraph (2);

(b) meets any other prescribed conditions; and

(c) does not fall within any prescribed exemptions.

(2) The conditions referred to in sub-paragraph (1)(a) are that the lease—

(a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;

(b) was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent, or such other percentage as may be prescribed, of the figure by reference to which it was calculated;

(c) provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;

(d) does not restrict the tenant's powers to mortgage or charge his interest in the house;

(e) if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed;

(f) provides for the tenant to acquire the landlord's interest on terms specified in the lease and complying with such requirements as may be prescribed; and

(g) states the landlord's opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.

(3) In any proceedings the court may, if it considers that it is just and equitable to do so, treat a lease as meeting the conditions mentioned in sub-paragraph (2) despite the fact that the condition specified in paragraph (g) of that sub-paragraph is not met.

Certain leases for the elderly ".

(2) For the italic heading before paragraph 3 of that Schedule to that Act substitute— " Certain housing association and other leases ".

Commencement Information

I172 S. 301 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(5)** (with arts. 6-13)

302 Shared ownership leases: protection for hard to replace houses

(1) After paragraph 4 of Schedule 4A to the Leasehold Reform Act 1967 (c. 88) (exclusion from enfranchisement for certain shared ownership leases for the elderly) insert—

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"**Certain leases in protected areas**

4A (1) A lease which does not fall within paragraph 3 or 3A is excluded from the operation of this Part of this Act if—

(a) the lease meets the conditions mentioned in sub-paragraph (2);

(b) any provision in the lease for the tenant to acquire the landlord's interest provides for the tenant to acquire the interest on terms specified in the lease and complying with such requirements as may be prescribed;

(c) the lease meets any other prescribed conditions;

(d) the lease does not fall within any prescribed exemptions; and

(e) the house is in a protected area.

(2) The conditions referred to in sub-paragraph (1)(a) are that the lease—

(a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;

(b) was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent, or such other percentage as may be prescribed, of the figure by reference to which it was calculated;

(c) provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;

(d) does not restrict the tenant's powers to mortgage or charge his interest in the house;

(e) if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed; and

(f) states the landlord's opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.

(3) The appropriate national authority may by order made by statutory instrument designate an area as a protected area if it considers it appropriate to do so to support the provision in the area of houses, or descriptions of houses, which are available for occupation in accordance with shared ownership arrangements.

(4) The appropriate national authority must publish the criteria for the time being in force which are to be taken into account by it in deciding whether to designate an area as a protected area.

(5) Before making an order under sub-paragraph (3) the appropriate national authority must take such steps as it considers to be reasonable to consult those likely to be affected by the order.

(6) In any proceedings the court may, if it considers that it is just and equitable to do so, treat a lease as meeting the conditions mentioned in sub-paragraph (2) despite the fact that the condition mentioned in paragraph (f) of that sub-paragraph is not met.

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(7) An order under this paragraph may contain such incidental, supplementary, transitory, transitional or saving provisions as the appropriate national authority considers appropriate.

(8) In this paragraph "shared ownership arrangements" has the same meaning as in section 70 of the Housing and Regeneration Act 2008.

(9) An instrument containing—

(a) an order of the Secretary of State under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament;

(b) an order of the Welsh Ministers under this paragraph is subject to annulment in pursuance of a resolution of the National Assembly for Wales."

(2) In paragraph 5 of that Schedule to that Act (power to prescribe matters by regulations) —

(a) in sub-paragraph (1) for "Secretary of State" substitute " appropriate national authority ", and

(b) in sub-paragraph (2)—

(i) in paragraph (b) for "Secretary of State" substitute " appropriate national authority ",

(ii) after "which" insert " , in the case of regulations made by the Secretary of State, " and

(iii) after "Parliament" insert " and, in the case of regulations made by the Welsh Ministers, shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales ".

(3) After paragraph 6 of that Schedule to that Act (interpretation) insert—

"7 In this Schedule "appropriate national authority" means—

(a) in relation to England, the Secretary of State; and

(b) in relation to Wales, the Welsh Ministers."

Commencement Information

I173 S. 302 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(5)** (with arts. 6-13)

Service charges

303 Service charges: provision of information and designated accounts

Schedule 12 (which relates to the provision of information about service charges and to service charge funds) has effect.

Commencement Information

I174 S. 303 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(6)**(7) (with arts. 6-13)

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Right to buy etc: miscellaneous

304 Exclusion of the right to buy: possession orders

(1) For section 121(1) of the Housing Act 1985 (c. 68) (circumstances in which the right to buy cannot be exercised) substitute—

"(1) The right to buy cannot be exercised if the tenant is subject to an order of the court for possession of the dwelling-house."

(2) Subsection (1) does not apply where the tenant has served a notice under section 122 of that Act (tenant's notice claiming to exercise right to buy) before the coming into force of subsection (1) above and the notice is not withdrawn.

305 Exclusion of the right to buy: demolition notices

Schedule 13 (which makes provision about demolition notices) has effect.

306 Review of determination of value

(1) The Housing Act 1985 is amended as follows.

(2) After section 128 (determination of value by district valuer) insert—

"**128A Determination of value: review notices**

(1) Subsection (2) applies if the value of a dwelling-house has been determined or re-determined under section 128 ("the section 128 determination").

(2) The district valuer may—
(a) on the valuer's own initiative; or
(b) at the request of the landlord or the tenant of the dwelling-house;
serve on the landlord and the tenant a notice of intention to review the section 128 determination giving reasons for the intention ("a review notice").

(3) A request under subsection (2)(b) must—
(a) be in writing;
(b) state the reason it is being made; and
(c) confirm that the landlord has not made to the tenant a grant of the kind mentioned in section 138(1) in respect of the claim by the tenant to exercise the right to buy in respect of the dwelling-house.

(4) The landlord or the tenant may not make a request under subsection (2)(b) after the end of the period of 28 days beginning with the section 128(5) service date.

(5) The district valuer must, before the end of the period of 14 days beginning with the day on which such a request is made, serve on the landlord and the tenant—
(a) a review notice; or
(b) a notice stating—
(i) that the request was made;
(ii) that the district valuer has decided not to comply with it; and

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(iii) the reasons for the decision.

(6) A review notice may not be served after the end of the period of 42 days beginning with the section 128(5) service date.

(7) A review notice may not be served in relation to a determination which is subject to a re-determination required in pursuance of section 128(3) (but this does not prevent the service of a review notice in relation to the re-determination).

(8) A review notice may not be served if the landlord has made a grant of the kind mentioned in subsection (3)(c).

(9) A person who makes a request under subsection (2)(b) must inform the district valuer if a grant of the kind mentioned in subsection (3)(c) is made during the period of 14 days mentioned in subsection (5).

(10) Subsection (11) applies if the district valuer is considering whether to serve a review notice on the valuer's own initiative.

(11) The landlord or the tenant must, if requested by the district valuer, inform the valuer whether a grant of the kind mentioned in subsection (3)(c) has been made.

(12) In this section and section 128B—

"a review notice" has the meaning given by subsection (2);

"the section 128 determination" has the meaning given by subsection (1);

"the section 128(5) service date" means the day on which the landlord serves a notice on the tenant under section 128(5) in relation to the section 128 determination.

128B Review of determination of value

(1) The district valuer must review the section 128 determination as soon as reasonably practicable after serving a review notice.

(2) Subsection (3) applies if, following the review, the district valuer decides that neither of the withdrawal conditions is met.

(3) The district valuer must, as soon as reasonably practicable, serve on the landlord and the tenant a notice stating—

(a) the decision;

(b) the reasons for it; and

(c) that no further determination or (as the case may be) re-determination is to be made under this section.

(4) Subsection (5) applies if, following the review, the district valuer decides that either withdrawal condition is met or both are met.

(5) The district valuer must—

(a) as soon as reasonably practicable, withdraw the section 128 determination by serving a further determination notice on the landlord and the tenant; and

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(b) make a further determination or (as the case may be) re-determination of the value of the dwelling-house at the relevant time.

(6) Before making such a determination or re-determination, the district valuer must consider any representation made to the valuer by the landlord or the tenant before the end of the period of 14 days beginning with the day on which the further determination notice was served.

(7) As soon as practicable after such a determination or re-determination has been made, the landlord must serve on the tenant a determination effect notice.

(8) A determination effect notice is a notice stating—

(a) the effect of the further determination or (as the case may be) re-determination; and

(b) the matters mentioned in section 125(2) and (3).

(9) For the purposes of this section, the withdrawal conditions are—

(a) that a significant error was made in the section 128 determination; or

(b) that the district valuer did not comply with section 128(4) in relation to the section 128 determination.

(10) This section does not apply to a determination which is subject to a re-determination required in pursuance of section 128(3) (but this does not prevent this section applying to the re-determination).

(11) In this section—

"a further determination notice" is a notice stating—

(a) that the section 128 determination is withdrawn;

(b) the reasons for the withdrawal; and

(c) that a further determination or (as the case may be) re-determination of the value of the dwelling-house at the relevant time will be made;

"significant error", in relation to the section 128 determination, means an error of fact, or a number of such errors, made in the section 128 determination as a result of which the value of the dwelling-house determined or (as the case may be) re-determined was at least 5% more or less than it would otherwise have been."

(3) In section 125D(2) (period for serving tenant's notice of intention), in paragraph (b), for the words from ", the service" to the end substitute " (or where the landlord exercises his right to have the value of the dwelling-house re-determined by the district valuer), the relevant event ".

(4) After section 125D(2) (period for serving tenant's notice of intention) insert—

"(3) In subsection (2)(b) "the relevant event" means—

(a) where a review notice was capable of being served under section 128A in relation to the determination or re-determination but no such notice was served during the period permitted by that section, the service of the notice under section 128(5) stating the effect of the determination or re-determination,

(b) where a review notice was served under section 128A in relation to the determination or re-determination and section 128B(3) applied, the service on the tenant of the notice under section 128B(3), and

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(c) where a review notice was served under section 128A in relation to the determination or re-determination and section 128B(5) applied, the service of the notice under section 128B(7).”

(5) In section 128(2) (power of tenant to require determination or re-determination of value) omit “, or as the case may be re-determined,”.

(6) In section 128(5) (notice of determination or re-determination) for the words from “stating” to the end substitute “stating—

(a) the effect of the determination or re-determination,

(b) the matters mentioned in section 125(2) and (3) (terms for exercise of right to buy), and

(c) the effect of section 128A(2) (right of district valuer to serve review notice and of landlord and tenant to request that such a notice is served).”

(7) After section 128(5) (notice of determination or redetermination) insert—

“(5A) The landlord shall, as soon as practicable, serve a copy of the notice on the district valuer if—

(a) the district valuer requests it; or

(b) the landlord requests a review of the determination or re-determination under section 128A(2)(b).

(5B) The tenant shall, as soon as practicable, serve a copy of the notice on the district valuer if the tenant requests a review of the determination or re-determination under section 128A(2)(b).

(5C) For the purposes of subsections (5A) and (5B) it does not matter whether the request in question was made before, on or after the service of the notice in accordance with subsection (5).”

(8) In section 136(2) (period for serving notice of intention where there is a change of secure tenant), in paragraph (b), for the words from “, the service” to the end substitute “ (or where the right to have the value of the dwelling-house re-determined by the district valuer is or has been exercised by the landlord), the relevant event ”.

(9) After section 136(2) (period for serving notice of intention where there is a change of secure tenant) insert—

“(2A) In subsection (2)(b) “the relevant event” means—

(a) where a review notice was capable of being served under section 128A in relation to the determination or re-determination but no such notice was served during the period permitted by that section, the service of the notice under section 128(5) stating the effect of the determination or re-determination,

(b) where a review notice was served under section 128A in relation to the determination or re-determination and section 128B(3) applied, the service on the new tenant or (as the case may be) the former tenant of the notice under section 128B(3), and

(c) where a review notice was served under section 128A in relation to the determination or re-determination and section 128B(5) applied, the service of the notice under section 128B(7).”

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(10) In section 140(4) (circumstances in which landlord's first notice to complete may not be served), after paragraph (a), insert—

"(aa) a review notice (within the meaning of section 128A) has been served in relation to such a determination or re-determination, section 128B applies and the district valuer has neither—

(i) served a notice under section 128B(3) (refusal to make further determination), nor

(ii) served a notice under section 128B(7) (a determination effect notice),

(ab) no such review notice has been served but such a notice may still be served under section 128A,".

(11) In section 181(1) (jurisdiction of county court) after "128" insert " , 128B ".

(12) This section does not apply to any determination or re-determination under section 128 of the Housing Act 1985 (c. 68) which was required before the coming into force of this section.

307 Approved lending institutions

(1) In section 156 of the Housing Act 1985 (liability to repay is a charge on the premises) —

(a) in subsection (4) for "and any body specified, or of a class or description specified, in an order made by the Secretary of State" substitute— " an authorised mortgage lender. ", and

(b) omit subsections (5) and (6).

(2) In section 622(1) of that Act (minor definitions: general), after the definition of "authorised insurer", insert—

""authorised mortgage lender" means—

(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to enter into a regulated mortgage contract as lender,

(b) an EEA firm of the kind mentioned in paragraph (5)(b) of Schedule 3 to that Act who has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to enter into a regulated mortgage contract as lender, or

(c) a Treaty firm within the meaning of Schedule 4 to that Act who has permission under paragraph 4 of that Schedule (as a result of qualifying for authorisation under paragraph 2 of that Schedule) to enter into a regulated mortgage contract as lender;".

(3) In section 622(2) of that Act (interpretation of "authorised deposit taker" and "authorised insurer") for "and "authorised insurer"" substitute " " , "authorised insurer"and "authorised mortgage lender" ".

(4) In section 36(4) of that Act (priority of charges: approved lending institutions) for the words from "and any body" to the end substitute— " an authorised mortgage lender. "

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(5) In section 151B(5) of that Act (priority of charges: approved lending institutions) for the words from "and any body" to the end substitute— " an authorised mortgage lender. "

(6) In paragraph 2(5) of Schedule 11 to the Housing Act 1988 (c. 50) (priority of charges: approved lending institutions) for paragraph (e) substitute—

"(e) an authorised mortgage lender (within the meaning of the Housing Act 1985 (see section 622 of that Act))."

(7) In section 12(5) of the Housing Act 1996 (c. 52) (priority of charges: approved lending institutions) for paragraph (c) substitute—

"(c) an authorised mortgage lender (within the meaning of the Housing Act 1985 (see section 622 of that Act))."

308 Former right to buy and other flats: service charge loans

(1) In section 450C(4) of the Housing Act 1985 (c. 68) (loans in respect of service charges on former right to buy flats and other housing authority flats)—

(a) in paragraph (a) for "as regards the rate of interest payable on" substitute " in a case where a rate of interest is payable on some or all of ", and

(b) after paragraph (a) insert—

"(aa) in a case where amounts calculated by reference to the market value of the flat are payable instead of (or as well as) interest, make provision about calculating the market value of the flat (including imposing charges for the services of district valuers);".

(2) The powers conferred by section 450C(3) of that Act include, in relation to loans made before the coming into force of subsection (1) above, the power to prescribe terms, or (as the case may be) make provision, of the kind envisaged by subsection (1)(b) above.

(3) But any such terms or provision are not to apply to any particular loan made before the coming into force of subsection (1) above unless the landlord and tenant agree that they are to apply in that case.

Commencement Information

I175 S. 308 in force at 1.12.2008 for E. by S.I. 2008/3068, **art. 4(8)** (with arts. 6-13)

309 Former right to buy and other flats: equity share purchases

After section 450C of the Housing Act 1985 (c. 68) (loans in respect of service charges) insert—

"Other financial assistance in respect of service charges

450D Purchase of equitable interests

(1) The appropriate national authority may by regulations provide that where—

(a) a housing authority is the landlord of a flat under a long lease granted or assigned by the housing authority or another housing authority, and

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(b) the tenant is liable under the terms of the lease to pay service charges in respect of repairs or improvements (whether to the flat, the building in which it is situated or any other building or land),

the landlord may, with the agreement of the tenant and in such circumstances as may be prescribed, purchase an equitable interest in the flat for the purpose of assisting the tenant to meet some or all of the service charge payments.

(2) Regulations under this section shall ensure that the purchase price is to be met by the landlord reducing or (as the case may be) cancelling the service charge payable to the landlord by the tenant to such extent as corresponds to the amount concerned.

(3) Regulations under this section may, in particular—

(a) provide that the power to purchase an equitable interest does not arise in the case of particular descriptions of landlord;

(b) make provision about calculating the purchase price (including provision about any discounts and about imposing charges for the services of district valuers);

(c) provide for—

(i) the tenant to be liable for the administrative expenses of the landlord in connection with the purchase;

(ii) such expenses not to exceed such amount (if any) as may be specified in the regulations;

(iii) the purchase price to include, at the option of the purchaser, a deduction for such expenses;

(d) provide for an alteration, as a result of the purchase of the equitable interest, in the liability of the tenant for future service charges or improvement contributions.

(4) Regulations under this section may not contain provision for cases where the Secretary of State or the Welsh Ministers are the landlord unless the Welsh Ministers are the landlord—

(a) as the result of the exercise by them of functions under Part 3 of the Housing Associations Act 1985; or

(b) as the result of—

(i) the exercise by the former National Assembly for Wales, the Secretary of State, Housing for Wales or the Housing Corporation of functions under Part 3 of the Act of 1985; and

(ii) the transfer of the flat to the Welsh Ministers by virtue of paragraph 39 of Schedule 11 to the Government of Wales Act 2006.

(5) For the purposes of this section a long lease granted or assigned by—

(a) the Welsh Ministers, or

(b) in a case falling within subsection (4)(b), the former National Assembly for Wales, the Secretary of State, Housing for Wales or the Housing Corporation,

shall be taken to have been granted or assigned by a housing authority if (but only if) the person concerned granted or assigned it in exercise of its powers under section 90 of the Housing Associations Act 1985.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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(6) This section does not affect any other power of the landlord to purchase an equitable interest in the flat for the purpose of assisting the tenant to meet some or all of the service charge payments.

(7) Regulations under this section may apply whenever the lease concerned was granted or assigned and whenever the service charge concerned became payable.

(8) Regulations under this section—
- (a) are to be made by statutory instrument;
- (b) may make different provision for different cases or descriptions of case including different provision for different areas;
- (c) may contain such incidental, supplementary and transitional provisions as the appropriate national authority considers appropriate.

(9) An instrument containing regulations made under this section—
- (a) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament;
- (b) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(10) In this section—

"appropriate national authority" means—
- (a) in relation to England, the Secretary of State; and
- (b) in relation to Wales, the Welsh Ministers;

"former National Assembly for Wales" means the Assembly constituted by the Government of Wales Act 1998;

"housing authority"—
- (a) does not include a registered provider of social housing, or a registered social landlord, which is a co-operative housing association;
- (b) includes a co-operative housing association which is neither a registered provider of social housing nor a registered social landlord;

"improvement contribution" has the same meaning as in Part 5 (see section 187);

"repairs" includes works for making good a structural defect."

Commencement Information

I176 S. 309 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(9)** (with arts. 6-13)

I177 S. 309 in force at 6.4.2009 for further purposes by S.I. 2009/803, **art. 9**

310 Other amendments

(1) In paragraph 11(5B) of Schedule 5 to the Housing Act 1985 (c. 68) (exceptions to the right to buy for certain accommodation for the elderly: appeals etc. to the High Court possible by virtue of disapplication of section 231(4) of the Housing Act 2004 (c. 34)) for "Section 231" substitute " Section 231(1), (2), (3) and (5) ".

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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(2) Subsection (1) does not apply to—

(a) appeals begun, or cases stated and signed, before the coming into force of that subsection, or

(b) rights of appeal, or rights to have a case stated and signed, which have accrued before that time.

(3) In paragraph 5 of Schedule 5A to the Housing Act 1985 (service of initial demolition notices) for "Schedule 13" substitute " Schedule 5 ".

Other

311 Disposals of dwelling-houses by local authorities

Schedule 14 (which makes provision about the requirements for consent for disposals of dwelling-houses by local authorities) has effect.

Commencement Information

I178 S. 311 in force at 1.12.2008 by S.I. 2008/3068, **art. 4(1)(c)** (with arts. 6-13)

312 Financial assistance for information and other services

(1) In section 94(1) of the Housing Act 1996 (c. 52) (financial assistance for provision of general legal advice about residential tenancies and advice about estate management schemes in connection with enfranchisement)—

(a) after "person of" insert " information, training or ",

(b) after "about" insert " , or a dispute resolution service in connection with ",

(c) at the end of paragraph (a), after "tenancies,", insert—

"(aa) any other matter relating to residential tenancies,", and

(d) in paragraph (b), at the beginning, insert " any matter relating to ".

(2) In the heading of section 94 of that Act (and the italic cross-heading before it) for "legal advice" substitute " advice etc. ".

CHAPTER 3

HOUSING FINANCE AND OTHER PROVISIONS

Housing Revenue Account subsidy

313 Exclusions from subsidy arrangements

(1) After section 80A of the Local Government and Housing Act 1989 (c. 42) (housing finance: Housing Revenue Account subsidy) insert—

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"**80B Agreements to exclude certain authorities or property**

(1) Subsection (2) applies if an agreement is in force between the appropriate person and a local housing authority for sections 79 to 80A not to apply in relation to—
  (a) the authority; or
  (b) specified property, or specified descriptions of property, of the authority.

(2) Sections 79 to 80A do not apply in relation to the authority or (as the case may be) property for each year provided for in the agreement.

(3) Such an agreement may, in particular, contain terms and conditions about—
  (a) the period of years for which sections 79 to 80A are not to apply (whether a fixed or indefinite period);
  (b) payments to the authority by the appropriate person or by the authority to the appropriate person;
  (c) the levels of rent for specified property or specified descriptions of property (in the case of an agreement of the kind mentioned in subsection (1)(b));
  (d) the provision of information;
  (e) the variation or termination of the agreement (whether on the occurrence of particular events, at the discretion of the appropriate person or otherwise).

(4) The appropriate person may give directions about supplementary, incidental, consequential or transitional matters relating to the variation or termination of an agreement of the kind mentioned in subsection (1).

(5) Such directions may not override any provision made on the subject by the agreement unless the directions are given with the consent of the local housing authority concerned.

(6) The provision made by the directions or the agreement may, in particular, include transitional provision about the terms and conditions on which the authority or (as the case may be) property is to become subject to sections 79 to 80A after the termination of the agreement.

(7) This section does not restrict the circumstances in which Housing Revenue Account subsidy is otherwise not payable to a local housing authority, or in respect of particular property, by virtue of this Part.

(8) In this section—

"property" means land, houses, dwellings, buildings or property of a kind falling within paragraphs (a) to (f) of section 74(1) (property within the Housing Revenue Account); and includes future property;

"specified", in relation to an agreement, means specified in the agreement."

(2) In section 88(1)(aa)(ii) of that Act (construction of Part 6: meaning of "appropriate person") for "National Assembly for Wales" substitute " Welsh Ministers ".

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(3) In Part 3 of Schedule 4 to that Act (the keeping of the Housing Revenue Account: special cases) in paragraph 2—

(a) at the beginning insert "(1)", and

(b) at the end insert—

"(2) Sub-paragraph (1) does not apply to a local housing authority in respect of a year if, by virtue of section 80B(2), sections 79 to 80A do not apply in relation to the authority for that year."

Homelessness and allocation of housing

314 Ineligible persons from abroad: statutory disregards

Schedule 15 (which amends Parts 6 and 7 of the Housing Act 1996 (c. 52) in relation to certain ineligible persons from abroad and which makes related provision, including provision for Scotland and Northern Ireland) has effect.

Commencement Information

I179 S. 314 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

I180 S. 314 in force at 2.3.2009 by S.I. 2009/415, **art. 4(a)**

I181 S. 314 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 2**

315 Armed forces: local connection test

In section 199 of the Housing Act 1996 (local connection test for homelessness and housing allocation purposes: different treatment of armed forces) omit—

(a) subsection (2),

(b) in subsection (3), paragraph (a) and the "or" following it,

(c) subsection (4), and

(d) in subsection (5), the word "other".

Commencement Information

I182 S. 315 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(10)** (with arts. 6-13)

I183 S. 315 in force at 30.3.2009 for specified purposes for W. by S.I. 2009/773, **art. 2**

Other

VALID FROM 07/09/2009

316 Amendments to Housing Act 1985: lending institutions

In section 622(1) of the Housing Act 1985 (c. 68) (minor definitions: general)—

(a) in the definition of "authorised deposit taker", in paragraph (b), for "12(1)" substitute " 12 ", and

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(b) in the definition of "authorised insurer", in paragraph (b), for "12(1)" substitute " 12 ".

317 Building regulations: time limit for prosecutions

(1) Section 35A of the Building Act 1984 (c. 55) (time limit for prosecution for contravention of certain building regulations) is amended as follows.

(2) In the heading omit "certain".

(3) In subsection (1) for "a relevant offence" substitute " an offence under section 35 above ".

(4) Omit subsections (2), (3) and (6).

(5) Subsections (1) to (4) above do not apply to offences committed before the coming into force of this section.

Commencement Information
I184 S. 317 in force at 22.9.2008 by S.I. 2008/2358, **art. 4(a)**

VALID FROM 30/04/2011

318 Protected mobile home sites to include sites for gypsies and travellers

In section 5(1) of the Mobile Homes Act 1983 (c. 34) (interpretation), in the definition of "protected site", omit the words from "does not include" to "that,".

319 Financial assistance for certain services about commonhold

(1) In section 62(1) of the Commonhold and Leasehold Reform Act 2002 (c. 15) (financial assistance for general advice about an aspect of the law of commonhold land so far as relating to residential matters)—
  (a) after "person of" insert " information, training or ",
  (b) for "about an" substitute "about, or a dispute resolution service in connection with—
    (a) any", and
  (c) after "matters" insert ", or
    (b) any other matter relating to commonhold land and residential matters".

(2) In the heading of section 62 of that Act after "advice" insert " etc. ".

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PART 4

SUPPLEMENTARY AND FINAL PROVISIONS

320 Orders and regulations

(1) The power of the Secretary of State, the Treasury or the Welsh Ministers to make orders or regulations under this Act—

(a) is exercisable by statutory instrument,

(b) may be exercised so as to make provision generally or subject to exceptions or only in relation to specified cases or circumstances or descriptions of case,

(c) may be exercised so as to make different provision for different cases or descriptions of case, different circumstances, different purposes or different areas, and

(d) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.

(2) Subsection (1) does not apply to orders under—

(a) paragraph 3 of Schedule 3, or

(b) Schedule 4.

(3) An instrument containing—

(a) an order under section 13, 114 or 229,

(b) an order of the Secretary of State under section 321,

(c) an order of the Secretary of State under paragraph 19(4), 21(2) or (4) or 24 of Schedule 11,

(d) regulations under section 70 or 72, or

(e) regulations of the Secretary of State under section 280(3) or 291,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(4) Subsection (3) does not apply to an instrument containing an order under section 321 if the order does not amend or repeal a provision of a public general Act.

(5) If a draft of an instrument containing an order under section 13 would, apart from this subsection, be treated as a hybrid instrument for the purposes of the standing orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument.

(6) An instrument containing an order under section 23 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

(7) An instrument containing—

(a) an order under section 36 or Part 2 (excluding sections 114 and 229),

(b) an order of the Secretary of State under section 321 to which subsection (3) above does not apply,

(c) an order of the Secretary of State under paragraph 16(7), 18(4), 22(2) or 23(2) of Schedule 11,

(d) regulations under Part 2 (excluding sections 70 and 72),

(e) regulations of the Secretary of State under Chapter 1 of Part 3 (including Schedule 10 but excluding sections 280(3) and 291),

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(f) regulations of the Secretary of State under section 298, or

(g) regulations under Part 3 of Schedule 3,

is subject to annulment in pursuance of a resolution of either House of Parliament.

(8) An instrument containing—

(a) an order of the Welsh Ministers under section 321,

(b) an order of the Welsh Ministers under paragraph 19(4), 21(2) or (4) or 24 of Schedule 11, or

(c) regulations of the Welsh Ministers under section 280(3) or 291,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(9) Subsection (8) does not apply to an instrument containing an order under section 321 if the order does not amend or repeal a provision of a public general Act.

(10) An instrument containing—

(a) an order of the Welsh Ministers under section 321 to which subsection (8) above does not apply,

(b) an order of the Welsh Ministers under paragraph 16(7), 18(4), 22(2) or 23(2) of Schedule 11,

(c) regulations of the Welsh Ministers under Chapter 1 of Part 3 (including Schedule 10 but excluding section 280(3) or 291), or

(d) regulations of the Welsh Ministers under section 298,

is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

321 Consequential amendments and repeals

(1) Schedule 16 (which contains repeals and revocations including repeals of spent enactments) has effect.

(2) The Secretary of State may by order make such supplementary, incidental or consequential provision as the Secretary of State considers appropriate for the general purposes, or any particular purpose, of this Act or in consequence of any provision made by or under this Act or for giving full effect to this Act or any such provision.

(3) The power conferred by subsection (2) may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under an enactment (including this Act and any Act passed in the same Session as this Act).

(4) The power conferred by subsections (2) and (3) is also exercisable by the Welsh Ministers so far as it is exercisable in relation to matters with respect to which functions are exercisable by the Welsh Ministers.

Commencement Information

I185 S. 321 partly in force; s. 321(2)-(4) in force at Royal Asset see s. 325(6); s. 321(1) in force for specified purposes at 22.9.2008 see s. 325(1)(2)(b)

I186 S. 321 in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 10**

I187 S. 321 in force at 20.5.2009 for specified purposes by S.I. 2009/1261, **art. 4**

I188 S. 321(1) in force at 22.9.2008 for specified purposes by S.I. 2008/2358, **art. 4(b)**

I189 S. 321(1) in force at 1.12.2008 for specified purposes by S.I. 2008/3068, art. 5, **Sch.** (with arts. 6-13)

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I190 S. 321(1) in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 4(b)**

322 Transitional, transitory or saving provision

(1) The Secretary of State may by order make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act other than a Welsh provision.

(2) The Welsh Ministers may by order make such transitional, transitory or saving provision as the Welsh Ministers consider appropriate in connection with the coming into force of any Welsh provision.

(3) In this section "Welsh provision" means any provision of this Act so far as it is to be brought into force by an order of the Welsh Ministers.

323 Financial provisions

(1) There is to be paid out of money provided by Parliament—
- (a) any expenditure incurred by a Minister of the Crown by virtue of this Act, and
- (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.

(2) There is to be paid into the Consolidated Fund any sums received by a Minister of the Crown by virtue of this Act (apart from any sums required to be paid into the National Loans Fund).

324 Extent

(1) Subject as follows, Parts 1 to 3 (including Schedules 1 to 15) and Schedule 16 extend to England and Wales only.

(2) Any amendment, repeal or revocation made by this Act, other than one falling within subsection (3), has the same extent as the provision to which it relates.

(3) The following fall within this subsection—
- (a) the repeal in section 5 of the Mobile Homes Act 1983 (c. 34),
- (b) the repeals of sections 50 and 51 of the Housing Act 1988 (c. 50), and
- (c) the amendments of sections 52 to 54 and 59 of that Act.

325 Commencement

(1) Subject as follows, this Act comes into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes or different areas.

(2) The following provisions—
- (a) sections 294, 304 to 307, 310, 312, 313 and 319 and Schedule 13, and
- (b) section 321(1), and Schedule 16, so far as relating to the repeals in sections 125D(2), 128(2) and 136(2) of, and paragraph 13(5) of Schedule 5 to, the Housing Act 1985 (c. 68),

come into force at the end of the period of 2 months beginning with the day on which this Act is passed.

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(3) Subsection (4) applies to the following provisions—

(a) Chapter 1 of Part 3 (including Schedule 10),

(b) sections 295 to 298, 300 to 303, 308, 309, 315 and 318 and Schedule 12, and

(c) section 321(1), and Schedule 16, so far as relating to repeals and revocations which are connected to the provisions mentioned in paragraph (b) above.

(4) The provisions to which this subsection applies come into force—

(a) in relation to England, on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes or different areas, and

(b) in relation to Wales, on such day as the Welsh Ministers may by order appoint; and different days may be appointed for different purposes or different areas.

(5) The Secretary of State must consult the Welsh Ministers before making an order under subsection (1) in relation to section 50(2) and Schedule 5 or section 299 and Schedule 11.

(6) Subsection (1) does not apply to sections 320, 321(2) to (4), 322, 323 and 324, this section and section 326.

326 Short title

This Act may be cited as the Housing and Regeneration Act 2008.

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SCHEDULES

SCHEDULE 1

Section 1

THE HOMES AND COMMUNITIES AGENCY

Membership

1 (1) The HCA is to consist of such number of members (being not less than six) as the Secretary of State may from time to time appoint.

(2) The Secretary of State must appoint one of the members as the person with the function of chairing the HCA.

(3) In appointing a person to be a member, the Secretary of State—

(a) must have regard to the desirability of appointing a person who has experience of, and has shown some capacity in, a matter relevant to the exercise of the functions of the HCA, and

(b) must be satisfied that the person will have no financial or other interest likely to affect prejudicially the exercise of the person's functions as a member.

(4) The Secretary of State may require any person whom the Secretary of State proposes to appoint as a member to provide such information as the Secretary of State considers necessary for the purposes of sub-paragraph (3)(b).

Commencement Information

I191 Sch. 1 para. 1 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

Terms of appointment of members

2 (1) Subject as follows, a member of the HCA holds and vacates office in accordance with the member's terms of appointment.

(2) A member may resign by serving notice on the Secretary of State.

(3) A person ceases to have the function of chairing the HCA if the person—

(a) resigns from exercising that function by serving notice on the Secretary of State, or

(b) ceases to be a member.

(4) A person who—

(a) ceases to be a member, or

(b) ceases to have the function of chairing the HCA,

is eligible for reappointment.

(5) The Secretary of State may remove a member who—

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(a) has been absent from meetings of the HCA for a period of more than 6 months without the permission of the HCA,

(b) has become bankrupt or has made an arrangement with the member's creditors, or

(c) in the opinion of the Secretary of State, has failed to comply with the member's terms of appointment or is otherwise unable, unfit or unsuitable to exercise the member's functions as a member.

Commencement Information

I192 Sch. 1 para. 2 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

Remuneration etc: members

3 (1) The HCA may pay to its members such remuneration and such allowances as the Secretary of State may decide.

(2) The HCA may—

(a) pay such pensions, allowances or gratuities as the Secretary of State may decide to or in respect of any member or former member, or

(b) pay such sums as the Secretary of State may decide towards the provision for the payment of pensions, allowances or gratuities to or in respect of any member or former member.

(3) Sub-paragraph (4) applies if—

(a) a person ceases to be a member of the HCA, and

(b) the Secretary of State considers that there are special circumstances which make it appropriate for the person to receive compensation.

(4) The Secretary of State may require the HCA to pay the person such amount as the Secretary of State may decide.

Commencement Information

I193 Sch. 1 para. 3 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

Staff

4 (1) The HCA must appoint a person to be chief executive but may only appoint a person who has been approved by the Secretary of State.

(2) The chief executive is a member of staff of the HCA.

(3) The HCA may appoint such number of other staff as the Secretary of State may approve.

(4) The staff's terms and conditions of service are to be decided by the HCA with the approval of the Secretary of State.

(5) The HCA may pay to its staff such remuneration and such allowances as it may, with the approval of the Secretary of State, decide.

(6) The HCA may—

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(a) pay such pensions, allowances or gratuities to or in respect of any member of staff or former member of staff, or

(b) pay such sums towards the provision for the payment of pensions, allowances or gratuities to or in respect of any member of staff or former member of staff,

as it may, with the approval of the Secretary of State, decide.

Commencement Information
I194 Sch. 1 para. 4 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

Financial provision

5 (1) The Secretary of State may make payments to the HCA by way of grant.

(2) Such payments may be made on such terms and conditions as the Secretary of State considers appropriate.

Commencement Information
I195 Sch. 1 para. 5 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

Committees

6 (1) The HCA may establish one or more committees.

(2) A committee may establish one or more sub-committees.

(3) A member, or member of staff, of the HCA may be a member of a committee or sub-committee.

(4) Other persons may be members of committees or sub-committees but only with the approval, in each case, of the Secretary of State.

(5) No committee or sub-committee may consist exclusively of other persons.

(6) The members of a sub-committee of a committee may include persons who are not members of the committee.

(7) The HCA may pay such remuneration and such allowances as the Secretary of State may decide to any person who—

(a) is a member of a committee or sub-committee, but

(b) is neither a member nor member of staff of the HCA.

(8) The HCA may dissolve a committee or sub-committee.

Commencement Information
I196 Sch. 1 para. 6 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

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Procedure and members' interests

7 (1) The HCA may, subject to any directions given by the Secretary of State, decide—
(a) its own procedure, and
(b) the procedure of any of its committees or sub-committees.

(2) Subject to this, a committee may decide the procedure of any of its sub-committees.

(3) Subject as above, a committee or sub-committee may decide its own procedure.

(4) In this paragraph "procedure" includes quorum.

Commencement Information
I197 Sch. 1 para. 7 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

8 The validity of proceedings of the HCA, or of any of its committees or sub-committees, is not affected by—
(a) any vacancy,
(b) any defective appointment, or
(c) any contravention of—
(i) directions given as mentioned in paragraph 7(1), or
(ii) paragraph 9.

Commencement Information
I198 Sch. 1 para. 8 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

9 (1) A member of the HCA who is directly or indirectly interested in any matter arising at a meeting of the HCA must disclose the nature of that interest to the meeting.

(2) A member of a committee or sub-committee of the HCA who is directly or indirectly interested in any matter arising at a meeting of the committee or sub-committee must disclose the nature of that interest to the meeting.

(3) In the case of a matter disclosed under this paragraph by a member of the HCA or of a committee or sub-committee, the member—
(a) must not take part in any deliberation or decision about the matter if it is a contract or agreement of any description, but
(b) may otherwise take part in any deliberation or decision about the matter unless at least one-third of the other members at the meeting decide that the interest disclosed might prejudicially affect the member's consideration of the matter.

Commencement Information
I199 Sch. 1 para. 9 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

Delegation

10 (1) The HCA may delegate any of its functions to any of its members, committees, sub-committees or staff.

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(2) Any such committee may delegate any function conferred on it to any sub-committee of the committee or to any staff of the HCA.

(3) See also section 42 (agency arrangements of the HCA with urban development corporations).

Commencement Information
I200 Sch. 1 para. 10 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

Reports, accounts etc.

11 (1) For each financial year, the HCA must—
(a) prepare an annual report on how it has exercised its functions during the year, and
(b) send a copy of the report to the Secretary of State within such period as the Secretary of State may direct.

(2) The Secretary of State must lay before Parliament a copy of each report received under sub-paragraph (1).

Commencement Information
I201 Sch. 1 para. 11 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

12 (1) The HCA must keep proper accounts and proper records in relation to the accounts.

(2) For each financial year, the HCA must—
(a) prepare a statement of accounts in respect of that financial year, and
(b) send copies of the statement to the Secretary of State and the Comptroller and Auditor General within such period as the Secretary of State may direct.

(3) The statement must be in such form as the Secretary of State may direct.

(4) The Comptroller and Auditor General must—
(a) examine, certify and report on the statement, and
(b) send a copy of the certified statement and of the report to the Secretary of State as soon as possible.

(5) The Secretary of State must lay before Parliament a copy of each statement and report received under sub-paragraph (4).

Commencement Information
I202 Sch. 1 para. 12 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

13 (1) The HCA must provide the Secretary of State with such information as the Secretary of State may require relating to the HCA's property or to the exercise or proposed exercise of its functions.

(2) The HCA must—

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(a) permit any person authorised by the Secretary of State to inspect and make copies of any accounts or other documents of the HCA, and

(b) provide such explanation of them as that person or the Secretary of State may require.

Commencement Information
I203 Sch. 1 para. 13 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

Supplementary and transitional provisions

14 (1) The application of the seal of the HCA must be authenticated by the signature of—

(a) a member of the HCA who is authorised (generally or specifically) for that purpose, or

(b) a member of staff of the HCA who is so authorised.

(2) A document purporting to be duly executed under the seal of the HCA, or signed on its behalf, is to be received in evidence and, unless the contrary is proved, is to be treated as so executed or signed.

Commencement Information
I204 Sch. 1 para. 14 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

15 The HCA is not to be regarded—

(a) as a servant or agent of the Crown, or

(b) as enjoying any status, immunity or privilege of the Crown,

and its property is not to be regarded as property of, or held for or on behalf of, the Crown.

Commencement Information
I205 Sch. 1 para. 15 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

16 The HCA is a public body for the purposes of the Prevention of Corruption Acts 1889 to 1916.

Commencement Information
I206 Sch. 1 para. 16 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

17 The Secretary of State (instead of the HCA) may—

(a) appoint the first chief executive, and

(b) determine the terms and conditions of service as a member of staff of the HCA which are applicable to the first chief executive on appointment.

Commencement Information
I207 Sch. 1 para. 17 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(1)**

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULE 2

Section 9(6)

ACQUISITION OF LAND

PART 1

COMPULSORY ACQUISITION OF LAND

Application of Acquisition of Land Act 1981 (c. 67)

1 (1) The Acquisition of Land Act 1981 applies to the compulsory acquisition of land under section 9 with the following modification.

(2) The reference in section 17(3) of that Act (local authority and statutory undertakers' land) to statutory undertakers includes a reference to the HCA.

Commencement Information
I208 Sch. 2 para. 1 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

2 (1) Schedule 3 to the Act of 1981 applies to the compulsory acquisition of new rights under section 9 with the following modification.

(2) The reference in paragraph 4(3) of that Schedule to statutory undertakers includes a reference to the HCA.

Commencement Information
I209 Sch. 2 para. 2 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

Extinguishment of private rights of way etc.

3 (1) Sub-paragraph (2) applies where the HCA completes the compulsory acquisition of land under this Part of this Act.

(2) On completion of the acquisition—

(a) all private rights of way on, under or over the land are extinguished,

(b) all rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land are extinguished, and

(c) any such apparatus vests in the HCA.

(3) Sub-paragraph (2) is subject to paragraphs 4 to 6.

Commencement Information
I210 Sch. 2 para. 3 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

4 The HCA may give a direction before the completion of the acquisition that paragraph 3(2) is not to apply to any right or apparatus specified in the direction.

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Commencement Information
I211 Sch. 2 para. 4 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

5 Paragraph 3(2) is subject to any agreement which may be made (whether before or after the completion of the acquisition) between—
(a) the HCA, and
(b) the person—
(i) in whom the right or apparatus concerned is vested, or
(ii) to whom it belongs.

Commencement Information
I212 Sch. 2 para. 5 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

6 (1) Paragraph 3(2) does not apply to—
(a) any right vested in statutory undertakers for the purpose of carrying on their undertaking,
(b) any apparatus belonging to statutory undertakers for that purpose,
(c) any right conferred by, or in accordance with, the electronic communications code on the operator of an electronic communications code network, or
(d) any electronic communications apparatus kept installed for the purposes of any such network.

(2) In sub-paragraph (1) "statutory undertakers" means persons who are, or are deemed to be, statutory undertakers for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990 (c. 8); and "statutory undertaking" is to be read in accordance with section 262 of that Act (meaning of "statutory undertakers").

Commencement Information
I213 Sch. 2 para. 6 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

7 (1) Any person who suffers loss by the extinguishment of a right, or the vesting of any apparatus, under paragraph 3 is entitled to compensation from the HCA.

(2) Any compensation payable under this paragraph is to be determined in accordance with the Land Compensation Act 1961 (c. 33).

Commencement Information
I214 Sch. 2 para. 7 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

New rights: Compulsory Purchase Act 1965 (c. 56)

8 (1) The Compulsory Purchase Act 1965 applies, with the necessary modifications, to the compulsory acquisition of new rights under section 9 as it applies to the compulsory purchase of land.

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(2) One result is that, in appropriate contexts, references in that Act to land are to be read as referring, or as including references, to—

(a) the rights acquired or to be acquired, or

(b) land over which the rights are, or are to be, exercisable,

according to the requirements of the particular context.

Commencement Information

I215 Sch. 2 para. 8 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

New rights: specific adaptations of 1965 Act

9 (1) Part 1 of the Act of 1965 applies to the compulsory acquisition of new rights under section 9 with the modifications specified in paragraphs 10 to 15.

(2) Sub-paragraph (1) is without prejudice to the generality of paragraph 8.

Commencement Information

I216 Sch. 2 para. 9 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

10 Section 7 (measure of compensation) of the Act of 1965 is to be read as if for that section there were substituted—

"**7** (1) In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is acquired is depreciated by the acquisition but also to the damage (if any) to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.

(2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 (compensation for injurious affection) is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that—

(a) for "land is acquired or taken" there shall be substituted " a right over land is acquired "; and

(b) for "acquired or taken from him" there shall be substituted " over which the right is exercisable "."

Commencement Information

I217 Sch. 2 para. 10 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

11 Section 8 of the Act of 1965 (which relates to cases in which a vendor cannot be required to sell part only of a building or garden) is to be read as if for that section there were substituted—

"**8** (1) Subsection (3) applies if—

(a) a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house

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("the relevant land") has been served on a person in pursuance of section 5 of this Act; and

(b) as a result—

(i) a question of disputed compensation in respect of the purchase of the right would, apart from this section, fall to be determined by the Lands Tribunal ("the Tribunal"); and

(ii) before the Tribunal has determined the question, the person satisfies the Tribunal as mentioned in subsection (2).

(2) The person satisfies the Tribunal as mentioned in this subsection if the person satisfies the Tribunal that—

(a) the person has an interest which the person is able and willing to sell in the whole of the relevant land; and

(b) the right—

(i) in the case of land consisting of a house, building or manufactory, cannot be purchased without material detriment to the land; or

(ii) in the case of land consisting of a park or garden belonging to a house, cannot be purchased without seriously affecting the amenity or convenience of the house.

(3) The compulsory purchase order to which the notice to treat relates, in relation to the person concerned—

(a) ceases to authorise the purchase of the right; and

(b) is deemed to authorise the purchase of the person's interest in the whole of the relevant land (including, in the case of land consisting of a park or garden belonging to a house, the house);

and the notice to treat is deemed to have been served in respect of that interest on such date as the Tribunal directs.

(4) Any question as to the extent of the land in which a compulsory purchase order is deemed to authorise the purchase of an interest by virtue of subsection (3) is to be determined by the Tribunal.

(5) Subsection (6) applies if, in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1)(b)(ii), a compulsory purchase order is deemed by virtue of subsection (3) to authorise the purchase of an interest in land.

(6) The acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made.

(7) Nothing in subsection (6) prejudices any other power of the authority to withdraw the notice.

(8) The modifications subject to which subsection (1) of section 58 of the Land Compensation Act 1973 (determination of material detriment) is to have effect, as applied by subsection (2) of that section to the duty of the Tribunal in determining whether it is satisfied as mentioned in subsection (1)(b)(ii) above, are set out in subsection (9).

(9) They are that—

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(a) at the beginning of paragraphs (a) and (b) there shall be inserted " a right over ";

(b) for "severance" there shall be substituted " right on the whole of the house, building or manufactory or of the house and the park or garden "; and

(c) for "part proposed" and "part is" there shall be substituted respectively "right proposed" and "right is"."

Commencement Information

I218 Sch. 2 para. 11 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

12 (1) The provisions of the Act of 1965 mentioned in sub-paragraph (2) (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land) are to be read as if they were modified in accordance with sub-paragraph (3).

(2) The provisions are—

(a) section 9(4) (failure of owners to convey),

(b) paragraph 10(3) of Schedule 1 (owners under incapacity),

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners), and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land).

(3) The provisions are to be read as if they were modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be acquired compulsorily is vested absolutely in the acquiring authority.

Commencement Information

I219 Sch. 2 para. 12 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

13 (1) Section 11 of the Act of 1965 (powers of entry) is to be read as if it were modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right, the acquiring authority has power to enter for the purpose of exercising that right.

(2) For the purposes of sub-paragraph (1)—

(a) the power to enter is to be exercisable in the same circumstances, and subject to the same conditions, as already contained in that section, and

(b) the right is deemed to have been created on the date of service of the notice.

(3) Sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) of the Act of 1965 are to be read as if modified correspondingly.

Commencement Information

I220 Sch. 2 para. 13 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

14 Section 20 of the Act of 1965 (compensation for short-term tenants) is to be read as if it were modified so as to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they

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would be compensated on a compulsory purchase of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right concerned.

Commencement Information
I221 Sch. 2 para. 14 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

15 Section 22 of the Act of 1965 (protection of acquiring authority's possession of land where by inadvertence an interest in the land has not been purchased) is to be read as if it were modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right concerned, subject to compliance with that section as respects compensation.

Commencement Information
I222 Sch. 2 para. 15 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

New rights: compensation

16 (1) The enactments relating to compensation for the compulsory purchase of land apply, with the necessary modifications, in relation to the acquisition of new rights under section 9 as they apply to compensation for the compulsory purchase of land.

(2) Sub-paragraph (1) is without prejudice to the generality of paragraph 8.

Commencement Information
I223 Sch. 2 para. 16 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

PART 2

ACQUISITION BY AGREEMENT

17 (1) The provisions of Part 1 of the Compulsory Purchase Act 1965 (c. 56) (other than section 31) apply, so far as applicable, to the acquisition by the HCA of land by agreement.

(2) In that Part as so applied “land” has the same meaning as in this Part of this Act.

Commencement Information
I224 Sch. 2 para. 17 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(d)** (with arts. 6-13)

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SCHEDULE 3

Section 11

MAIN POWERS IN RELATION TO LAND OF THE HCA

PART 1

POWERS TO OVERRIDE EASEMENTS ETC.

Powers to override easements etc. in undertaking works or using land

1 (1) The HCA or any other person may undertake any construction or maintenance works on land of the HCA even if undertaking the works involves—
(a) interference with a relevant right or interest, or
(b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) But the construction or maintenance works must still be in accordance with planning permission.

(3) The HCA or any other person may use any land of the HCA even if the use involves—
(a) interference with a relevant right or interest, or
(b) a breach of a restriction as to the user of land arising by virtue of a contract.

(4) But the use of the land must be in accordance with planning permission.

(5) Sub-paragraphs (1) to (4) do not authorise interference with—
(a) any right of way on, under or over land, or
(b) any right of laying down, erecting, continuing or maintaining apparatus on, under or over land,

if the right is a protected right.

(6) In this paragraph—

"construction or maintenance works" means the erection, construction, carrying out or maintenance of any building or work,

"protected right" means—
(a) a right vested in, or belonging to, statutory undertakers for the purpose of carrying on their undertaking, or
(b) a right conferred by, or in accordance with, the electronic communications code on the operator of an electronic communications code network,

"relevant right or interest" means any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land (including any natural right to support),

"statutory undertakers" means persons who are, or are deemed to be, statutory undertakers for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990 (c. 8); and "statutory undertaking" is to be read in accordance with section 262 of that Act (meaning of "statutory undertakers").

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Commencement Information
I225 Sch. 3 para. 1 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Compensation for overridden easements etc.

2 (1) Compensation is payable under section 7 or 10 of the Compulsory Purchase Act 1965 (c. 56) in respect of any interference or breach made in pursuance of paragraph 1.

(2) The compensation is to be assessed in the same manner, and subject to the same rules, as in the case of other compensation under those sections in respect of injurious affection where—

(a) the compensation is to be estimated in connection with a purchase by the HCA, or

(b) the injury arises from the execution of works on, or use of, land acquired by the HCA.

(3) Sub-paragraph (4) applies if a person other than the HCA—

(a) is liable to pay compensation by virtue of sub-paragraphs (1) and (2), and

(b) fails to discharge that liability.

(4) The liability is enforceable against the HCA.

(5) But sub-paragraph (4) does not affect any agreement between the HCA and any other person for indemnifying the HCA against any liability under that sub-paragraph.

Commencement Information
I226 Sch. 3 para. 2 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

PART 2

POWERS TO EXTINGUISH PUBLIC RIGHTS OF WAY

Powers of Secretary of State to extinguish public rights of way by order

3 The Secretary of State may by order extinguish any public right of way over land of the HCA if the Secretary of State is satisfied that—

(a) an alternative right of way has been, or will be, provided, or

(b) the provision of an alternative right of way is not required.

Commencement Information
I227 Sch. 3 para. 3 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Notification of proposal to make order

4 (1) This paragraph applies if the Secretary of State is proposing to make an order under paragraph 3.

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(2) The Secretary of State must—
- (a) publish a notice stating—
  - (i) the effect of the order,
  - (ii) the time (not less than 28 days starting with the date of publication of the notice) within which objections to the proposal may be made, and
  - (iii) the manner in which objections to the proposal may be made, and
- (b) serve a copy of the notice on—
  - (i) the local planning authority in whose area the land is situated, and
  - (ii) the relevant highway authority.

(3) In sub-paragraph (2) "the relevant highway authority" means any authority which is a highway authority in relation to the right of way which is proposed to be extinguished by the order.

(4) Publication under sub-paragraph (2) must be in such manner as the Secretary of State considers appropriate.

Commencement Information
I228 Sch. 3 para. 4 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Duty to consider objections

5 (1) The Secretary of State must proceed under paragraph 6 if—
- (a) an objection to a proposal to make an order is properly made and not withdrawn, and
- (b) the matter is not otherwise dealt with.

(2) For the purposes of sub-paragraph (1) an objection is properly made if (and only if)—
- (a) it is made—
  - (i) within the time, and
  - (ii) in the manner,

  stated in the notice under paragraph 4, and
- (b) a written statement of the grounds of the objection is comprised in, or submitted with, the objection.

(3) For the purposes of sub-paragraph (1) the matter is otherwise dealt with if (and only if) the Secretary of State—
- (a) decides, irrespective of the objection, not to make the order, or
- (b) decides to make a modification to the proposal which is agreed to by the objector as meeting the objection.

Commencement Information
I229 Sch. 3 para. 5 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

6 (1) The Secretary of State must, before making a final decision, consider the grounds of the objection as set out in the statement comprised in, or submitted with, the objection.

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(2) The Secretary of State may require the objector to submit within a particular period a further written statement as to any of the matters to which the objection relates.

Commencement Information
I230 Sch. 3 para. 6 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Duty to give opportunity to appear

7 (1) The Secretary of State must, before making a final decision, give the objector an opportunity to appear before, and be heard by, a person appointed for the purpose by the Secretary of State.

(2) Sub-paragraph (3) applies if the objector takes advantage of this opportunity.

(3) The Secretary of State must give an opportunity of appearing and being heard on the same occasion as the objector to—

(a) the HCA, and

(b) any other persons whom the Secretary of State considers ought to be given the opportunity.

(4) Sub-paragraphs (1) to (3) do not apply so far as the Secretary of State has the power to proceed under paragraph 8 or 9.

Commencement Information
I231 Sch. 3 para. 7 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Power to treat objection as irrelevant

8 The Secretary of State may treat the objection as irrelevant for the purpose of making a final decision—

(a) if the Secretary of State has considered the grounds of the objection as set out in the original statement and in any further statement, and

(b) so far as the Secretary of State is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation.

Commencement Information
I232 Sch. 3 para. 8 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Power to curtail decision-making process

9 The Secretary of State may make a final decision without further investigation as to the matters to which the objection relates if—

(a) the Secretary of State—

(i) has considered the grounds of the objection as set out in the original statement and in any further statement, and

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(ii) is satisfied that, for the purpose of making a final decision, sufficient information is available as to the matters to which the objection relates, or

(b) a further statement has been required under paragraph 6(2) but is not submitted within the required period.

Commencement Information
I233 Sch. 3 para. 9 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Power to hold public local inquiry

10 (1) The Secretary of State must cause a public local inquiry to be held in relation to an objection to a proposal to make an order under paragraph 3 if the Secretary of State considers that the matters to which the objection relates are such as to require investigation by such an inquiry before the Secretary of State makes a final decision.

(2) The duty in sub-paragraph (1) is effective despite any other provisions of paragraphs 4 to 9.

(3) The other provisions of those paragraphs are to be ignored if no effect has been given to them when the Secretary of State decides to cause an inquiry to be held.

Commencement Information
I234 Sch. 3 para. 10 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Orders relating to electronic communications apparatus: removal or abandonment of apparatus

11 Paragraphs 12 and 13 apply if—

(a) an order under paragraph 3 extinguishing a public right of way is made, and

(b) at the time of the publication of the notice required by paragraph 4 any electronic communications apparatus was kept installed for the purposes of an electronic communications code network under, in, on, over, along or across the land over which the right of way subsisted.

Commencement Information
I235 Sch. 3 para. 11 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

12 (1) The power of the operator of the network to remove the apparatus is exercisable, despite the order, at any time not later than the end of the period of 3 months beginning with the day on which the right of way is extinguished.

(2) The power of the operator of the network to remove the whole or any part of the apparatus is exercisable after the end of that period if, before the end of the period, the operator has served notice on the HCA of the operator's intention to remove the apparatus or (as the case may be) part.

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Commencement Information
I236 Sch. 3 para. 12 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

13 (1) The operator of the network may abandon the electronic communications apparatus, or any part of it, by serving notice to that effect on the HCA not later than the end of the period of 3 months beginning with the day on which the right of way is extinguished.

(2) In the absence of such a notice, the operator of the network is to be treated at the end of the period of 3 months as having abandoned any part of the apparatus which, at that time, the operator has neither—

(a) removed, nor

(b) served notice of intention to remove.

Commencement Information
I237 Sch. 3 para. 13 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

14 (1) The operator of the network may recover from the HCA the expense of providing any substitute electronic communications apparatus in such other place as the operator may require.

(2) In sub-paragraph (1) "substitute electronic communications apparatus" means electronic communications apparatus in substitution for—

(a) the electronic communications apparatus removed or abandoned, and

(b) any other electronic communications apparatus connected with the removed or abandoned apparatus which is made useless in consequence of the removal or abandonment.

Commencement Information
I238 Sch. 3 para. 14 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

15 Electronic communications apparatus, or any part of it, abandoned by the operator of an electronic communications code network under paragraph 13—

(a) vests in the HCA, and

(b) is deemed, with its abandonment, to cease to be kept installed for the purposes of an electronic communications code network.

Commencement Information
I239 Sch. 3 para. 15 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Orders relating to electronic communications apparatus: notice requirements

16 (1) The Secretary of State must serve notice on the operator of an electronic communications code network of the making of an order under paragraph 3 if the order extinguishes a public right of way in circumstances in which paragraphs 12 and 13 apply in relation to the operator.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The notice must be served as soon as practicable after the making of the order.

Commencement Information
I240 Sch. 3 para. 16 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Supplementary: Part 2

17 The power of the Secretary of State to make orders under paragraph 3 includes power to—
(a) vary or revoke such orders, and
(b) make supplementary, incidental, consequential, transitional, transitory or saving provision.

Commencement Information
I241 Sch. 3 para. 17 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

18 In this Part of this Schedule, in relation to an order, any reference to making a final decision is a reference to deciding whether to make the order or what modification (if any) ought to be made.

Commencement Information
I242 Sch. 3 para. 18 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

PART 3

POWERS IN RELATION TO BURIAL GROUNDS AND CONSECRATED LAND ETC.

Burial grounds

19 (1) This paragraph applies in relation to any land of the HCA which consists in, or forms part of, a burial ground.

(2) The HCA may use the land in any way which accords with planning permission despite—
(a) anything in any enactment relating to burial grounds, or
(b) any obligation or restriction imposed under ecclesiastical law or otherwise in respect of burial grounds.

(3) But sub-paragraph (2) does not apply in relation to any land which has been used for the burial of the dead until prescribed requirements about the removal and reinterment of human remains and the disposal of monuments have been complied with in relation to the land.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I243 Sch. 3 para. 19 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Consecrated land other than burial grounds

20 (1) This paragraph applies in relation to any land of the HCA which—
(a) is consecrated land (whether or not including a building), and
(b) does not consist in, or form part of, a burial ground.

(2) The HCA or any other person may use the land in any way which accords with planning permission despite any obligation or restriction imposed under ecclesiastical law or otherwise in respect of consecrated land.

(3) But any such use of the land is subject to—
(a) prescribed requirements about the disposal of monuments, and
(b) prescribed provisions for prohibiting or restricting the use of the land while—
(i) any church or other building used, or formerly used, for religious worship remains on the land, or
(ii) any part of any such church or other building remains on the land.

(4) Prohibitions or restrictions prescribed under sub-paragraph (3)(b) may be absolute or until a prescribed consent is obtained.

Commencement Information
I244 Sch. 3 para. 20 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Other land connected to religious worship

21 (1) This paragraph applies in relation to any land of the HCA which—
(a) is neither consecrated land nor land which consists in, or forms part of, a burial ground, and
(b) at the time of acquisition included—
(i) a church or other building used, or formerly used, for religious worship, or
(ii) the site of such a church or other building.

(2) Any use of the land is subject to prescribed requirements about the disposal of monuments.

Commencement Information
I245 Sch. 3 para. 21 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

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Regulations: general

22 (1) Regulations under this Part of this Schedule must secure that any use of land which is subject to compliance with the regulations is (so far as possible) subject to an appropriate level of control.

(2) For the purposes of sub-paragraph (1) an appropriate level of control is the same control—

(a) as imposed by law in relation to a similar use authorised by an enactment not contained in this Part of this Act,

(b) as imposed by a Measure, or

(c) as it would be proper to impose on a disposal of the land concerned otherwise than in pursuance of an enactment or Measure.

(3) Regulations under this Part of this Schedule must impose such requirements in relation to the disposal of the land as the Secretary of State considers appropriate to secure that the requirements and other provisions in the regulations about the use of the land are complied with.

(4) Regulations made for the purposes of paragraphs 19 to 21 may, in particular, include incidental or consequential provision about the closing of registers.

Commencement Information

I246 Sch. 3 para. 22 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Regulations about human remains and monuments

23 (1) Regulations under this Part of this Schedule about the removal and reinterment of human remains and the disposal of monuments must require the persons in whom the land is vested to publish notice of their intention to carry out the removal and reinterment of any human remains or the disposal of any monuments.

(2) Regulations under this Part of this Schedule about the removal and reinterment of human remains and the disposal of monuments must make provision for—

(a) enabling the personal representatives or relatives of any deceased person themselves—

(i) to undertake the removal and reinterment of the remains of the deceased, and

(ii) the disposal of any monument commemorating the deceased, and

(b) requiring the persons in whom the land is vested to meet the expenses of such removal, reinterment and disposal provided that they are not more than such amount as may be prescribed.

(3) Regulations under this Part of this Schedule about the removal and reinterment of human remains and the disposal of monuments must require compliance with such reasonable conditions (if any) as may be imposed, in the case of consecrated land, by the bishop of the diocese, in relation to—

(a) the manner of removal of any human remains,

(b) the place and manner of reinterment of any human remains, and

(c) the disposal of any monuments.

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(4) Regulations under this Part of this Schedule about the removal and reinterment of human remains must require compliance with any directions given in any case by the Secretary of State in relation to the removal and reinterment of any human remains.

Commencement Information
I247 Sch. 3 para. 23 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Disapplication of faculties

24 (1) No faculty is required for—
(a) the removal and reinterment of any human remains, or
(b) the removal or disposal of any monuments,
in accordance with regulations under this Part of this Schedule.

(2) Sub-paragraph (1) is subject to any provision to the contrary made by regulations under this Part of this Schedule.

Commencement Information
I248 Sch. 3 para. 24 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Disapplication of section 25 of the Burial Act 1857

25 Section 25 of the Burial Act 1857 (c. 81) (which prohibits the removal of human remains without the licence of the Secretary of State except in certain cases) does not apply to a removal of human remains carried out in accordance with regulations under this Part of this Schedule.

Commencement Information
I249 Sch. 3 para. 25 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

Interpretation: Part 3

26 (1) In this Part of this Schedule—

"burial ground" includes any churchyard, cemetery or other ground (whether or not consecrated) which has at any time been set apart for the purposes of interment,

"monument" includes a tombstone or other memorial,

"prescribed" means prescribed by regulations made by the Secretary of State.

(2) Any power conferred by paragraph 19(2) or 20(2) to use land is to be read as a power to use the land, whether or not it involves—
(a) the erection, construction or carrying out of any building or work, or
(b) the maintenance of any building or work.

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Commencement Information
I250 Sch. 3 para. 26 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(f)** (with arts. 6-13)

SCHEDULE 4

Section 12

POWERS IN RELATION TO, AND FOR, STATUTORY UNDERTAKERS

PART 1

EXTINGUISHMENT OR REMOVAL POWERS FOR THE HCA

Notice for extinguishment of rights of undertakers or for removal of their apparatus

1 (1) Sub-paragraph (2) applies if—
(a) a protected right subsists over land of the HCA and is vested in, or belongs to, statutory undertakers for the purpose of carrying on their undertaking, or
(b) apparatus vested in, or belonging to, statutory undertakers for the purpose of carrying on their undertaking is on, under or over land of the HCA.

(2) The HCA may serve a notice on the statutory undertakers.

(3) The notice may, in the case of a protected right, state that, at the end of the relevant period, the right will be extinguished.

(4) The notice may, in the case of apparatus, require that, before the end of the relevant period, the apparatus must be removed.

(5) In this paragraph—
"protected right" means—
(a) a right of way on, under or over land, or
(b) a right of laying down, erecting, continuing or maintaining apparatus on, under or over land,
"relevant period" means—
(a) the period of 28 days beginning with the date of service of the notice, or
(b) any longer period beginning with that date and specified in the notice.

Commencement Information
I251 Sch. 4 para. 1 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Counter-notices

2 (1) Sub-paragraph (2) applies if the HCA serves a notice under paragraph 1 on statutory undertakers.

(2) The statutory undertakers may, before the end of the period of 28 days beginning with the date of the service of the notice, serve a counter-notice on the HCA.

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(3) The counter-notice is a notice stating that the statutory undertakers object to all or any provisions of the notice under paragraph 1.

(4) The counter-notice must also specify the grounds of their objection.

Commencement Information
I252 Sch. 4 para. 2 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Effect of unopposed notice

3 (1) This paragraph applies if—
(a) a notice is served under paragraph 1, and
(b) no counter-notice is served under paragraph 2.

(2) Any right to which the notice under paragraph 1 relates is extinguished at the end of the period specified for that purpose in the notice.

(3) The HCA may—
(a) remove any apparatus, and
(b) dispose of it as it considers appropriate,
if any requirement of the notice under paragraph 1 as to the removal of the apparatus has not been complied with by the end of the period specified for that purpose in the notice.

Commencement Information
I253 Sch. 4 para. 3 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Opposed notices and Ministerial orders

4 (1) This paragraph applies if—
(a) a notice is served under paragraph 1, and
(b) a counter-notice is served under paragraph 2.

(2) The HCA may—
(a) withdraw the notice served under paragraph 1, or
(b) apply to the Secretary of State and the appropriate Minister for an order under sub-paragraph (3).

(3) The Secretary of State and the appropriate Minister may make an order embodying, with or without modifications, the provisions of the notice.

(4) The fact that a notice has been withdrawn under sub-paragraph (2)(a) does not prejudice the service of a further notice.

Commencement Information
I254 Sch. 4 para. 4 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

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5 (1) Before making an order under paragraph 4(3), the Secretary of State and the appropriate Minister must give the statutory undertakers on whom notice was served an opportunity to object to the application for the order.

(2) The Secretary of State and the appropriate Minister—

(a) must consider any objections made by virtue of sub-paragraph (1), and

(b) must give—

(i) the statutory undertakers who made the objections, and

(ii) the HCA,

an opportunity to appear before, and be heard by, a person appointed for this purpose by the Secretary of State and the appropriate Minister.

(3) The Secretary of State and the appropriate Minister may then—

(a) decide not to make an order, or

(b) proceed to make an order in accordance with the application (with or without modifications).

Commencement Information

I255 Sch. 4 para. 5 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

6 (1) This paragraph applies if an order is made under paragraph 4(3).

(2) Any right to which the order relates is extinguished at the end of the period specified for that purpose in the order.

(3) The HCA may—

(a) remove any apparatus, and

(b) dispose of it as it considers appropriate,

if any requirement of the order as to the removal of the apparatus has not been complied with by the end of the period specified for that purpose in the order.

Commencement Information

I256 Sch. 4 para. 6 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Compensation

7 (1) Statutory undertakers are entitled to compensation from the HCA if—

(a) any right vested in, or belonging to, the statutory undertakers is extinguished, or

(b) any requirement is imposed on the statutory undertakers,

by virtue of this Part of this Schedule.

(2) Sections 280 and 282 of the Town and Country Planning Act 1990 (c. 8) (measure of compensation to statutory undertakers) apply to compensation under this paragraph as they apply to compensation under section 279(4) of that Act.

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Commencement Information
I257 Sch. 4 para. 7 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Electronic communications

8 (1) The reference in paragraph 1(1)(a) to a protected right vested in, or belonging to, statutory undertakers for the purpose of carrying on their undertaking includes a reference to a protected right conferred by, or in accordance with, the electronic communications code on the operator of an electronic communications code network.

(2) The reference in paragraph 1(1)(b) to apparatus vested in, or belonging to, statutory undertakers for the purpose of carrying on their undertaking includes a reference to electronic communications apparatus kept installed for the purposes of any such network.

(3) Sub-paragraphs (1) and (2) do not apply where paragraphs 12 and 13 of Part 2 of Schedule 3 apply (orders under paragraph 3 of that Schedule which relate to electronic communications apparatus).

(4) Where paragraph 1 has effect as mentioned in sub-paragraphs (1) and (2) above—

(a) any reference in this Part of this Schedule to statutory undertakers has effect as a reference to the operator of the electronic communications code network, and

(b) any reference in this Part of this Schedule to the appropriate Minister has effect as a reference to the Secretary of State for Business, Enterprise and Regulatory Reform.

Commencement Information
I258 Sch. 4 para. 8 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

PART 2

POWERS FOR UNDERTAKERS TO CARRY OUT WORKS

Notices to carry out works

9 (1) Sub-paragraph (2) applies if—

(a) apparatus vested in, or belonging to, statutory undertakers is on, under or over land of the HCA, and

(b) the statutory undertakers claim that development to be carried out on the land will require, on technical or other grounds connected with carrying on their undertaking, the removal or re-siting of the apparatus affected by the development.

(2) The statutory undertakers may serve on the HCA a notice claiming the right to—

(a) enter on the land, and

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(b) carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.

(3) No notice may be served under sub-paragraph (2) more than 21 days after the beginning of the development on the land.

Commencement Information
I259 Sch. 4 para. 9 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Counter-notices

10 (1) Sub-paragraph (2) applies if statutory undertakers serve a notice under paragraph 9 on the HCA.

(2) The HCA may, before the end of the period of 28 days beginning with the date of the service of the notice, serve a counter-notice on the statutory undertakers.

(3) The counter-notice is a notice stating that the HCA objects to all or any provisions of the notice under paragraph 9.

(4) The counter-notice must also specify the grounds of the HCA's objection.

Commencement Information
I260 Sch. 4 para. 10 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Effect of unopposed notice

11 (1) This paragraph applies if—

(a) a notice is served under paragraph 9,

(b) no counter-notice is served under paragraph 10, and

(c) the period of 28 days beginning with the date of the service of the notice under paragraph 9 has ended.

(2) The statutory undertakers have the rights claimed in their notice under paragraph 9.

Commencement Information
I261 Sch. 4 para. 11 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Opposed notices and Ministerial orders

12 (1) This paragraph applies if—

(a) a notice is served under paragraph 9, and

(b) a counter-notice is served under paragraph 10.

(2) The statutory undertakers may—

(a) withdraw the notice served under paragraph 9, or

(b) apply to the Secretary of State and the appropriate Minister for an order under sub-paragraph (3).

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(3) The Secretary of State and the appropriate Minister may by order confer on the statutory undertakers—

(a) the rights claimed in the notice under paragraph 9, or

(b) such modified rights as the Secretary of State and the appropriate Minister consider it appropriate to confer on the statutory undertakers.

(4) The fact that a notice has been withdrawn under sub-paragraph (2)(a) does not prejudice the service of a further notice.

Commencement Information

I262 Sch. 4 para. 12 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to arrange for the works to be done by the HCA

13 (1) Sub-paragraph (2) applies if statutory undertakers have the right to carry out works for the removal or re-siting of apparatus by virtue of this Part of this Schedule.

(2) The statutory undertakers may arrange with the HCA for the works to be carried out by the HCA, under the superintendence of the statutory undertakers, instead of by the statutory undertakers themselves.

Commencement Information

I263 Sch. 4 para. 13 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Compensation

14 (1) Statutory undertakers are entitled to compensation from the HCA if works are carried out for the removal or re-siting of their apparatus which they have the right to carry out by virtue of this Part of this Schedule.

(2) Sections 280 and 282 of the Town and Country Planning Act 1990 (c. 8) (measure of compensation to statutory undertakers) apply to compensation under this paragraph as they apply to compensation under section 279(4) of that Act.

Commencement Information

I264 Sch. 4 para. 14 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Electronic communications

15 (1) The reference in paragraph 9(1)(a) to apparatus vested in, or belonging to, statutory undertakers includes a reference to electronic communications apparatus kept installed for the purposes of an electronic communications code network.

(2) Where paragraph 9(1)(a) has effect as mentioned in sub-paragraph (1) above—

(a) any reference in this Part of this Schedule to statutory undertakers has effect as a reference to the operator of the electronic communications code network, and

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(b) any reference in this Part of this Schedule to the appropriate Minister has effect as a reference to the Secretary of State for Business, Enterprise and Regulatory Reform.

Commencement Information
I265 Sch. 4 para. 15 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

PART 3

EXTENSION OR MODIFICATION OF FUNCTIONS OF UNDERTAKERS

Ministerial order following representations by statutory undertakers

16 (1) The Secretary of State and the appropriate Minister may by order provide for an extension or modification of the functions of particular statutory undertakers if conditions 1 and 2 are met.

(2) Condition 1 is that the statutory undertakers have made representations on the subject to the Secretary of State and the appropriate Minister.

(3) Condition 2 is that the Secretary of State and the appropriate Minister consider it appropriate to extend or modify the functions of the statutory undertakers—

(a) to secure the provision of services which—

(i) would not otherwise be provided, or

(ii) would not otherwise be satisfactorily provided,

in relation to relevant land, or

(b) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in sub-paragraph (4).

(4) The acts and events are—

(a) the acquisition by the HCA under this Part of this Act of any land—

(i) in which an interest was held for the purpose of carrying on the undertaking concerned, or

(ii) which was used for that purpose, and

(b) the extinguishment of a right, or the imposition of any requirement, by virtue of Part 1 of this Schedule.

(5) In this Part of this Schedule "relevant land" means land in respect of which any of the functions of the HCA under this Part of this Act are being, or have been, exercised.

Commencement Information
I266 Sch. 4 para. 16 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Ministerial order following representations by the HCA

17 (1) The Secretary of State and the appropriate Minister may by order provide for an extension or modification of the functions of particular statutory undertakers if conditions 1 and 2 are met.

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(2) Condition 1 is that the HCA has made representations on the subject to the Secretary of State and the appropriate Minister.

(3) Condition 2 is that the Secretary of State and the appropriate Minister consider it appropriate to extend or modify the functions of the statutory undertakers to secure—
  (a) the provision of new services in relation to relevant land, or
  (b) the extension of existing services in relation to such land.

Commencement Information
I267 Sch. 4 para. 17 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Examples of contents of orders

18 (1) An order under paragraph 16 or 17 may, in particular—
  (a) give power to statutory undertakers—
    (i) to acquire (whether compulsorily or by agreement) any land specified in the order, or
    (ii) to erect or construct any buildings or works specified in the order,
  (b) apply, in relation to the acquisition of any such land or the erection or construction of any such buildings or works, enactments relating to the acquisition of land or the erection or construction of buildings or works.

(2) An order under paragraph 16 which is for the purposes mentioned in sub-paragraph (3)(a) of that paragraph or an order under paragraph 17 may, in particular, give effect to any financial arrangements—
  (a) agreed between the HCA and the statutory undertakers, or
  (b) in the absence of agreement, decided to be equitable in such manner, and by such tribunal, as may be specified in the order.

Commencement Information
I268 Sch. 4 para. 18 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Notification of proposal to make order

19 (1) Statutory undertakers must, as soon as possible after making representations of the kind mentioned in paragraph 16(2), publish a notice—
  (a) giving such particulars as the Secretary of State and the appropriate Minister may direct of the matters to which the representations relate,
  (b) specifying the time within which objections to the making of an order as a result of the representations may be made, and
  (c) specifying the manner in which objections to the making of such an order may be made.

(2) The notice must be published in such form and manner as the Secretary of State and the appropriate Minister may direct.

(3) The statutory undertakers must also serve a copy of the notice on such persons, or descriptions of persons, as the Secretary of State and the appropriate Minister may

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direct if the Secretary of State and the appropriate Minister direct that a copy is to be served.

Commencement Information
I269 Sch. 4 para. 19 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

20 (1) The HCA must, as soon as possible after making representations of the kind mentioned in paragraph 17(2), publish a notice—
(a) giving such particulars as the Secretary of State and the appropriate Minister may direct of the matters to which the representations relate,
(b) specifying the time within which objections to the making of an order as a result of the representations may be made, and
(c) specifying the manner in which objections to the making of such an order may be made.

(2) The notice must be published in such form and manner as the Secretary of State and the appropriate Minister may direct.

(3) The HCA must also serve a copy of the notice on such persons, or descriptions of persons, as the Secretary of State and the appropriate Minister may direct if the Secretary of State and the appropriate Minister direct that a copy is to be served.

Commencement Information
I270 Sch. 4 para. 20 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Duty to consider objections

21 (1) The Secretary of State and the appropriate Minister must proceed under paragraph 22 if—
(a) an objection to the making of an order under paragraph 16 or 17 is properly made and not withdrawn, and
(b) the matter is not otherwise dealt with.

(2) For the purposes of sub-paragraph (1) an objection is properly made if (and only if)—
(a) it is made—
(i) within the time, and
(ii) in the manner,
stated in the notice under paragraph 19(1) or (as the case may be) 20(1), and
(b) a written statement of the grounds of the objection is comprised in, or submitted with, the objection.

(3) For the purposes of sub-paragraph (1) the matter is otherwise dealt with if (and only if) the Secretary of State and the appropriate Minister—
(a) decide, irrespective of the objection, not to make the order, or
(b) decide to make a modification which is agreed to by the objector as meeting the objection.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I271 Sch. 4 para. 21 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

22 (1) The Secretary of State and the appropriate Minister must, before making a final decision, consider the grounds of the objection as set out in the statement comprised in, or submitted with, the objection.

(2) The Secretary of State and the appropriate Minister may require the objector to submit within a specified period a further written statement as to any of the matters to which the objection relates.

Commencement Information
I272 Sch. 4 para. 22 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Duty to give opportunity to appear

23 (1) The Secretary of State and the appropriate Minister must, before making a final decision, give the objector an opportunity to appear before, and be heard by, a person appointed for the purpose by the Secretary of State and the appropriate Minister.

(2) The Secretary of State and the appropriate Minister must give an opportunity of appearing and being heard on the same occasion to—

(a) the statutory undertakers or (as the case may be) the HCA as a result of whose representations the order is proposed to be made, and

(b) any other persons whom the Secretary of State and the appropriate Minister consider ought to be given the opportunity,

if the objector takes advantage of the opportunity mentioned in sub-paragraph (1).

(3) Sub-paragraphs (1) and (2) do not apply so far as the Secretary of State and the appropriate Minister have the power to proceed under paragraph 24 or 25.

Commencement Information
I273 Sch. 4 para. 23 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to treat objection as irrelevant

24 The Secretary of State and the appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision—

(a) if the Secretary of State and the appropriate Minister have considered the grounds of the objection as set out in the original statement and in any further statement, and

(b) so far as the Secretary of State and the appropriate Minister are satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I274 Sch. 4 para. 24 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to curtail decision-making process

25 The Secretary of State and the appropriate Minister may make a final decision without further investigation as to the matters to which the objection relates if—

(a) the Secretary of State and the appropriate Minister—

(i) have considered the grounds of the objection as set out in the original statement and in any further statement, and

(ii) are satisfied that, for the purpose of making a final decision, sufficient information is available as to the matters to which the objection relates, or

(b) a further statement has been required under paragraph 22(2) but is not submitted within the specified period.

Commencement Information
I275 Sch. 4 para. 25 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to hold public local inquiry

26 (1) The Secretary of State and the appropriate Minister must cause a public local inquiry to be held in relation to an objection under this Part of this Schedule if the Secretary of State and the appropriate Minister consider that the matters to which the objection relates are such as to require investigation by such an inquiry before the Secretary of State and the appropriate Minister make a final decision.

(2) The duty in sub-paragraph (1) is effective despite any other provisions of this Part of this Schedule.

(3) The other provisions of this Part of this Schedule are to be ignored if, when the Secretary of State and the appropriate Minister decide to cause an inquiry to be held, effect has not been given to them.

Commencement Information
I276 Sch. 4 para. 26 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Special parliamentary procedure for orders

27 Orders under paragraph 16 or 17 are subject to special parliamentary procedure.

Commencement Information
I277 Sch. 4 para. 27 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART 4

RELIEVING UNDERTAKERS OF OBLIGATIONS

Orders to relieve obligations

28 (1) The appropriate Minister may by order provide for statutory undertakers to be relieved (whether absolutely or so far as specified in the order) of the need to meet an obligation relating to the carrying on of their undertaking if conditions 1 and 2 are met.

(2) Condition 1 is that the statutory undertakers have made representations on the subject to the appropriate Minister.

(3) Condition 2 is that the appropriate Minister is satisfied that meeting some or all of the obligation has been made impracticable by any of the acts and events mentioned in sub-paragraph (4).

(4) The acts and events are—

(a) the acquisition by the HCA under this Part of this Act of any land—

(i) in which an interest was held for the purpose of carrying on the undertaking concerned, or

(ii) which was used for that purpose, and

(b) the extinguishment of a right, or the imposition of any requirement, by virtue of Part 1 of this Schedule.

Commencement Information

I278 Sch. 4 para. 28 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Notification of proposal to make order

29 (1) Statutory undertakers must, as soon as possible after making representations of the kind mentioned in paragraph 28(2), proceed as directed by the appropriate Minister.

(2) The appropriate Minister may direct the statutory undertakers to do either or both of the following—

(a) publish a notice—

(i) giving such particulars as the appropriate Minister may direct of the matters to which the representations relate,

(ii) specifying the time within which objections to the making of an order as a result of the representations may be made, and

(iii) specifying the manner in which objections to the making of such an order may be made, and

(b) serve a corresponding notice on such persons, or descriptions of persons, as the appropriate Minister may direct.

(3) Publication under sub-paragraph (2) must be in such form and manner as the appropriate Minister may direct.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I279 Sch. 4 para. 29 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Duty to consider objections

30 (1) The appropriate Minister must proceed under paragraph 31 if—
(a) an objection to the making of an order is properly made and not withdrawn, and
(b) the matter is not otherwise dealt with.

(2) For the purposes of sub-paragraph (1) an objection is properly made if (and only if)—
(a) it is made—
(i) within the time, and
(ii) in the manner,
stated in the notice under paragraph 29(2), and
(b) a written statement of the grounds of the objection is comprised in, or submitted with, the objection.

(3) For the purposes of sub-paragraph (1) the matter is otherwise dealt with if (and only if) the appropriate Minister—
(a) decides, irrespective of the objection, not to make the order, or
(b) decides to make a modification which is agreed to by the objector as meeting the objection.

Commencement Information
I280 Sch. 4 para. 30 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

31 (1) The appropriate Minister must, before making a final decision, consider the grounds of the objection as set out in the statement comprised in, or submitted with, the objection.

(2) The appropriate Minister may require the objector to submit within a specified period a further written statement as to any of the matters to which the objection relates.

Commencement Information
I281 Sch. 4 para. 31 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Duty to give opportunity to appear

32 (1) The appropriate Minister must, before making a final decision, give the objector an opportunity to appear before, and be heard by, a person appointed for the purpose by the appropriate Minister.

(2) The appropriate Minister must give an opportunity of appearing and being heard on the same occasion to—
(a) the statutory undertakers as a result of whose representations the order is proposed to be made, and

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(b) any other persons whom the appropriate Minister considers ought to be given the opportunity,

if the objector takes advantage of the opportunity mentioned in sub-paragraph (1).

(3) Sub-paragraphs (1) and (2) do not apply so far as the appropriate Minister has the power to proceed under paragraph 33 or 34.

Commencement Information
I282 Sch. 4 para. 32 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to treat objection as irrelevant

33 The appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision—

(a) if the appropriate Minister has considered the grounds of the objection as set out in the original statement and in any further statement, and

(b) so far as the appropriate Minister is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation.

Commencement Information
I283 Sch. 4 para. 33 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to curtail decision-making process

34 The appropriate Minister may make a final decision without further investigation as to the matters to which the objection relates if—

(a) the appropriate Minister—

(i) has considered the grounds of the objection as set out in the original statement and in any further statement, and

(ii) is satisfied that, for the purpose of making a final decision, sufficient information is available as to the matters to which the objection relates, or

(b) a further statement has been required under paragraph 31(2) but is not submitted within the specified period.

Commencement Information
I284 Sch. 4 para. 34 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to hold public local inquiry

35 (1) The appropriate Minister may cause a public local inquiry to be held in relation to an objection under this Part of this Schedule if the appropriate Minister considers that the matters to which the objection relates are such as to require investigation by such an inquiry before the appropriate Minister makes a final decision.

(2) The power in sub-paragraph (1) is effective despite any other provisions of this Part of this Schedule.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The other provisions of this Part of this Schedule are to be ignored if, when the Secretary of State decides to cause an inquiry to be held, effect has not been given to them.

Commencement Information
I285 Sch. 4 para. 35 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Notification procedure after the making of an order

36 (1) The appropriate Minister must, immediately after making an order under paragraph 28, proceed under sub-paragraphs (2) and (3).

(2) The appropriate Minister must publish a notice stating—
(a) that the order has been made, and
(b) a place where a copy of it may be seen at any reasonable hour.

(3) The appropriate Minister must serve a copy of the notice on—
(a) any person who—
(i) duly made an objection to the order, and
(ii) has sent the appropriate Minister a written request for the notice with an address for service, and
(b) any other person whom the appropriate Minister considers appropriate.

Commencement Information
I286 Sch. 4 para. 36 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Operative date of orders

37 An order under paragraph 28 which is not subject to special parliamentary procedure becomes operative on the date on which the notice required by paragraph 36(2) is first published.

Commencement Information
I287 Sch. 4 para. 37 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Special parliamentary procedure for orders

38 (1) An order under paragraph 28 is subject to special parliamentary procedure if any objection to the making of the order is properly made and not withdrawn before the order is made.

(2) Sub-paragraph (2) of paragraph 30 applies for the purposes of sub-paragraph (1) above as it applies for the purposes of sub-paragraph (1) of that paragraph.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I288 Sch. 4 para. 38 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Legal challenges to orders

39 (1) Sub-paragraph (2) applies if a person aggrieved by an order under paragraph 28 wishes to question its validity on the ground that—
(a) it is not within the powers conferred by this Part of this Schedule, or
(b) any requirement of this Part of this Schedule has not been complied with in relation to the order.

(2) The person may, within 6 weeks beginning with the date on which the notice required by paragraph 36(2) is first published, apply to the High Court.

(3) The High Court may, on an application under sub-paragraph (2), make an interim order suspending (whether wholly or in part) the operation of the order under paragraph 28 until the final determination of the proceedings.

(4) The operation of the order may be suspended generally or so far as affecting any property of the applicant.

(5) The High Court may, on an application under sub-paragraph (2), quash (whether wholly or in part) the order under paragraph 28 if satisfied that—
(a) the order is wholly or to any extent outside the powers conferred by this Part of this Schedule, or
(b) the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of this Part of this Schedule.

(6) The order under paragraph 28 may be quashed generally or so far as affecting any property of the applicant.

Commencement Information
I289 Sch. 4 para. 39 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

PART 5

SUPPLEMENTARY

Orders and directions

40 (1) The power of—
(a) the Secretary of State and the appropriate Minister,
(b) the Secretary of State and the Secretary of State for Business, Enterprise and Regulatory Reform, or
(c) the appropriate Minister,

to make orders under this Schedule includes power to vary or revoke such orders and to make supplementary, incidental, consequential, transitional, transitory or saving provision.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The power of—

(a) the Secretary of State and the appropriate Minister, or

(b) the appropriate Minister,

to give directions under this Schedule includes power to vary or revoke such directions and to make supplementary, incidental, consequential, transitional, transitory or saving provision.

Commencement Information

I290 Sch. 4 para. 40 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Interpretation

41 (1) In this Schedule—

"the appropriate Minister" is to be read as if contained in Part 11 of the Town and Country Planning Act 1990 (c. 8),

"the Secretary of State and the appropriate Minister" is to be read as if contained in Part 11 of the Town and Country Planning Act 1990 (and any references to the Secretary of State and the appropriate Minister are, in relation to anything done or to be done by them, to be read as references to them acting jointly),

"statutory undertakers" means persons who are or are deemed to be statutory undertakers for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990; and "statutory undertaking" is to be read in accordance with section 262 of that Act (meaning of "statutory undertaker").

(2) In this Schedule, in relation to an order, any reference to making a final decision is a reference to deciding whether to make the order or what modification (if any) ought to be made.

Commencement Information

I291 Sch. 4 para. 41 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

SCHEDULE 5

Section 50

AMENDMENTS OF THE NEW TOWNS ACT 1981

1 The New Towns Act 1981 (c. 64) is amended as follows.

Commencement Information

I292 Sch. 5 para. 1 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(v)**(2) (with arts. 6-13)

2 For the heading to Part 2 substitute "Transfers from and dissolution of development corporations etc.".

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I293 Sch. 5 para. 2 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

3 For the italic heading before section 35 substitute " Functions of Welsh Ministers in relation to certain transferred property ".

Commencement Information
I294 Sch. 5 para. 3 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

4 Omit section 35 (establishment of Commission for the New Towns).

Commencement Information
I295 Sch. 5 para. 4 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

5 (1) Section 36 (functions of Commission) is amended as follows.

(2) For the heading substitute "Functions of Welsh Ministers".

(3) For subsection (1) substitute—

"(1) The Welsh Ministers may—

(a) take over and, with a view to its eventual disposal, hold, manage and turn to account—

(i) the property of the Commission for the New Towns transferred to them under a scheme made under section 51(1) of the Housing and Regeneration Act 2008;

(ii) the property of development corporations transferred to them under this Act; and

(iii) the property of urban development corporations transferred to them by order under section 165A of the Local Government, Planning and Land Act 1980; and

(b) as soon as they consider it expedient to do so, dispose of property so transferred or any other property arising out of such property.

(1A) In exercising their functions under subsection (1), the Welsh Ministers must have regard to the considerations specified in subsection (2)."

(4) Omit subsections (3) and (3A).

(5) In subsection (4)—

(a) for "Commission", in the first two places where it appears, substitute " Welsh Ministers ", and

(b) omit the words from "; nor shall any" to the end.

(6) In subsection (4A)(a) for "Commission by order under section 165B" substitute " Welsh Ministers by order under section 165A ".

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I296 Sch. 5 para. 5 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(v)**(2) (with arts. 6-13)

6 Omit sections 37 (restrictions on functions of Commission) and 38 (local authorities and work for the Commission).

Commencement Information
I297 Sch. 5 para. 6 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(v)**(2) (with arts. 6-13)

7 (1) Section 39 (power of development corporations to transfer undertakings) is amended as follows.

(2) In subsection (1) for "Secretary of State" substitute " appropriate national authority ".

(3) In subsection (2) for "Secretary of State" substitute " appropriate national authority ".

(4) In subsection (2A) for "in relation to Wales" substitute " in the case of a development corporation established by the Welsh Ministers ".

(5) In subsection (3) for "Secretary of State" substitute " appropriate national authority ".

(6) In subsection (4)—

(a) at the beginning insert "In a case in which the appropriate national authority is the Secretary of State,", and

(b) for "Secretary of State", where it first appears, substitute " appropriate national authority ".

(7) In subsection (5)—

(a) for "Secretary of State" substitute " appropriate national authority ", and

(b) for "he" substitute " the authority ".

(8) For subsection (5A) substitute—

"(5A) No order shall be made under subsection (5) above—

(a) by the Secretary of State unless a draft of the order has been laid before, and approved by a resolution of, the House of Commons;

(b) by the Welsh Ministers unless a draft of the order has been laid before, and approved by a resolution of, the National Assembly for Wales."

Commencement Information
I298 Sch. 5 para. 7 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(v)**(2) (with arts. 6-13)

8 (1) Section 41 (transfer of property to Commission and dissolution of corporation) is amended as follows.

(2) In the heading, omit "to Commission".

(3) In subsection (1)—

(a) for "Secretary of State" substitute " appropriate national authority ",

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(b) for "he" substitute " the authority ", and
(c) in paragraph (a), for "Commission" substitute " relevant transferee ".

(4) In subsection (1A) for "in relation to Wales" substitute " in the case of a development corporation established by the Welsh Ministers ".

(5) In subsection (2)—
(a) for "Commission" substitute " relevant transferee ", and
(b) in paragraph (b)—
(i) for "Secretary of State" substitute " appropriate national authority ", and
(ii) for "him" substitute " the authority ".

(6) In subsection (4) for "Secretary of State" substitute " appropriate national authority ".

(7) In subsection (5) for "Commission" substitute " relevant transferee ".

Commencement Information
I299 Sch. 5 para. 8 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(v)**(2) (with arts. 6-13)

9 After section 41 insert—

"**41A Part 2: interpretation**

In this Part—
"the appropriate national authority"—
(a) in relation to a development corporation established by order made by the Secretary of State, means the Secretary of State; and
(b) in relation to a development corporation established by order made by the Welsh Ministers, means the Welsh Ministers;
"the relevant transferee"—
(a) in relation to an order made under section 41 by the Secretary of State, means the Homes and Communities Agency; and
(b) in relation to an order made under section 41 by the Welsh Ministers, means the Welsh Ministers."

Commencement Information
I300 Sch. 5 para. 9 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(v)**(2) (with arts. 6-13)

10 (1) Section 58 (advances to development corporations and Commission) is amended as follows.

(2) In the heading, omit "and Commission".

(3) Omit subsections (5) and (6).

Commencement Information
I301 Sch. 5 para. 10 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

11 (1) Section 58A (grants to development corporations and Commission) is amended as follows.

(2) In the heading, omit "and Commission".

(3) Omit subsections (4) and (5).

Commencement Information
I302 Sch. 5 para. 11 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

12 (1) Section 59 (other borrowing powers of development corporations and Commission) is amended as follows.

(2) In the heading, omit "and Commission".

(3) In subsection (1)—
(a) omit "or the Commission", and
(b) for the words from "or the Commission (as the case may be)" to the end substitute " may require for meeting its obligations or performing its functions ".

(4) In subsection (2)—
(a) omit "or the Commission", and
(b) for "they may require for enabling them" substitute " it may require for enabling it. "

Commencement Information
I303 Sch. 5 para. 12 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

13 (1) Section 60 (limit on borrowing by development corporations and Commission) is amended as follows.

(2) In the heading, omit "and Commission".

(3) In subsection (1)—
(a) at the end of paragraph (b), insert " and ",
(b) omit paragraph (c) and the "and" following it,
(c) in paragraph (d), for "(whether by development corporations or by the Commission)" substitute " by development corporations ", and
(d) for "(2) to (4)" substitute " (2) and (3) ".

(4) Omit subsection (4).

Commencement Information
I304 Sch. 5 para. 13 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

14 (1) Section 61 (provisions supplemental to section 58) is amended as follows.

(2) In subsection (1) for from the beginning of paragraph (a) to the end of paragraph (b) substitute " to a development corporation under section 58(1) above ".

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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(3) In subsection (2) omit “, (5) or (6)”.

Commencement Information
I305 Sch. 5 para. 14 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

15 (1) Section 62 (Treasury guarantees) is amended as follows.

(2) In subsection (1) for “or the Commission borrow” substitute “ borrows ”.

(3) In subsection (5) for the words from “or by the Commission” to “(as the case may be)” substitute “ , the corporation ”.

Commencement Information
I306 Sch. 5 para. 15 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

16 Omit section 62B (power to suspend loan obligations of development corporations and Commission).

Commencement Information
I307 Sch. 5 para. 16 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

17 (1) Section 63 (Secretary of State's general power) is amended as follows.

(2) In subsection (1) omit “or the Commission”.

(3) In subsection (2) omit “or the Commission, as the case may be”.

Commencement Information
I308 Sch. 5 para. 17 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

18 (1) Section 65 (disposal of surplus funds) is amended as follows.

(2) In subsection (1) for the words from “, and with the Commission” to the end substitute “ and any development corporation, that the corporation has a surplus whether on capital or on revenue account after making allowance by way of transfer to reserve or otherwise for its future requirements ”.

(3) In subsection (2) for “The Commission or that corporation, as the case may be,” substitute “ That corporation ”.

Commencement Information
I309 Sch. 5 para. 18 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

19 In section 66(1) (payments under sections 63 and 65 treated as repayments) for paragraph (a) and the “and” following it substitute—

“(a) as made by way of repayment of such part of the principal of advances under section 58(1) above, and”.

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Commencement Information
I310 Sch. 5 para. 19 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

20 (1) Section 67 (accounts of Commission and development corporations) is amended as follows.

(2) In the heading, omit "Commission and".

(3) In subsection (1)—
(a) omit "The Commission and",
(b) in paragraph (b), omit "respectively", and
(c) omit the words from "being, in the Commission's case" in paragraph (b) to the end of the subsection.

(4) Omit subsection (1A).

(5) In subsection (2)—
(a) omit "of the Commission and", and
(b) omit "or the Commission" wherever appearing.

(6) In subsection (3)—
(a) omit "the Commission or", and
(b) in paragraph (a), for "they are" substitute " it is ".

Commencement Information
I311 Sch. 5 para. 20 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

21 (1) Section 68 (audit) is amended as follows.

(2) In subsection (1)—
(a) omit the words from "of the Commission" to "and the accounts", and
(b) omit "Commission or".

(3) Omit subsection (2A).

(4) In subsection (3)—
(a) for "accounts of the Commission or" substitute " accounts of ",
(b) for "Commission or corporation, as the case may be," substitute " corporation ", and
(c) for "them" substitute " it ".

Commencement Information
I312 Sch. 5 para. 21 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

22 (1) Section 69 (Secretary of State's accounts) is amended as follows.

(2) In subsection (1)—
(a) omit paragraph (a) and the "and" following it, and
(b) omit the words from "and directions under" to the end.

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(3) In subsection (2), omit paragraph (a) and the "and" following it.

Commencement Information
I313 Sch. 5 para. 22 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

23 (1) Section 70 (reports) is amended as follows.

(2) Omit paragraph (a).

(3) Omit "of the Commission or".

Commencement Information
I314 Sch. 5 para. 23 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

24 (1) Section 71 (information) is amended as follows.

(2) In subsection (1)—

(a) for "the Commission and every development corporation shall respectively" substitute " every development corporation shall ", and

(b) for "their" substitute " its ".

(3) In subsection (2)—

(a) omit "the Commission and", and

(b) in paragraph (a), for "Commission or corporation, as the case may be" substitute " corporation ".

Commencement Information
I315 Sch. 5 para. 24 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

25 In section 72(1)(a) (application and exclusion of certain enactments: section 12 of the Finance Act 1895 (c. 16)) omit "or from the Commission".

Commencement Information
I316 Sch. 5 para. 25 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(v)**(2) (with arts. 6-13)

26 In section 74(3) (local inquiries) for "sections 37, 40 and 41" substitute " sections 40 and 41 ".

Commencement Information
I317 Sch. 5 para. 26 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(v)**(2) (with arts. 6-13)

27 In section 77(3) (regulations and orders to be made by statutory instrument) omit "and paragraph 7 of Schedule 9 to this Act".

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Commencement Information
I318 Sch. 5 para. 27 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

28 In section 80(1) (general interpretation provisions)—
(a) omit the definition of "the Commission", and
(b) in the definition of "financial year", omit "or the Commission".

Commencement Information
I319 Sch. 5 para. 28 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

29 In section 82 (short title, extent and commencement)—
(a) in subsection (2)(c) for "1, 2 and 12" substitute " 1 and 2 ", and
(b) in subsection (3) omit "paragraph 12 of Schedule 11, and".

Commencement Information
I320 Sch. 5 para. 29 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(v)**(2) (with arts. 6-13)

30 Omit Schedule 9 (additional provisions as to the Commission).

Commencement Information
I321 Sch. 5 para. 30 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

31 (1) Schedule 10 (additional provisions as to transfer to Commission of property of development corporation) is amended as follows.

(2) In the heading, omit "to Commission".

(3) In paragraph 1—
(a) for "Commission", wherever appearing, substitute " relevant transferee ", and
(b) in sub-paragraph (2)(c), for ", to the member" to the end substitute "—
(i) in a case where the relevant transferee is the Homes and Communities Agency, to the member or member of staff of the Agency who corresponds as nearly as may be to the member or officer in question of the corporation; and
(ii) in a case where the relevant transferee is the Welsh Ministers, to the member of staff of the Welsh Ministers who corresponds as mentioned in sub-paragraph (i) above."

(4) In paragraph 2—
(a) for "Secretary of State", wherever appearing, substitute " appropriate national authority ", and
(b) for "Commission", wherever appearing, substitute " relevant transferee ".

(5) In paragraph 3—

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(a) in sub-paragraph (1) for "Commission" substitute " relevant transferee ",

(b) in sub-paragraph (3)(a) for "Commission" substitute " relevant transferee ", and

(c) in sub-paragraph (3)(c)—

(i) for "where the development" substitute " where, in the case of a development corporation established by the Secretary of State, the ", and

(ii) for "Commission" substitute " Homes and Communities Agency ".

(6) Omit paragraph 4.

(7) In paragraph 5—

(a) omit sub-paragraph (1), and

(b) for sub-paragraph (2) substitute—

"(2) Sub-paragraph (3) applies if, in the case of a development corporation established by the Secretary of State, the liabilities of the corporation for—

(a) the repayment of advances under section 58(1) above; or

(b) the payment of interest on such advances;

are transferred to the Homes and Communities Agency.

(3) The following provisions apply to those advances—

(a) section 61(2); and

(b) section 66(1) but as if the reference to any payment under section 63 or 65 above were a reference to any sum received by the Secretary of State under section 25(2) of the Housing and Regeneration Act 2008."

Commencement Information

I322 Sch. 5 para. 31 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(v)**(2) (with arts. 6-13)

32 (1) Schedule 11 (saving and transitional provisions) is amended as follows.

(2) In the italic heading before paragraph 3, omit "to Commission and".

(3) Omit paragraphs 3 and 5.

(4) Omit paragraph 12 and the italic heading before it.

Commencement Information

I323 Sch. 5 para. 32 in force at 1.4.2009 by S.I. 2009/803, **art. 3(1)**

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SCHEDULE 6

Sections 51(3) and 65(3)

TRANSFER SCHEMES

Creation and apportionment of property, rights and liabilities etc.

1 A scheme may—

(a) create for the transferor interests in, or rights over, property transferred by virtue of the scheme,

(b) create for a transferee interests in, or rights over, property retained by the transferor or transferred to another transferee,

(c) create rights or liabilities between the transferor and a transferee or between transferees.

Commencement Information

I324 Sch. 6 para. 1 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

2 (1) A scheme may provide for the transfer of property, rights or liabilities that would not otherwise be capable of being transferred or assigned.

(2) In particular, it may provide for the transfer to take effect regardless of a contravention, liability or interference with an interest or right that would otherwise exist by reason of a provision having effect in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.

(3) It does not matter whether the provision referred to in sub-paragraph (2) has effect under an enactment or an agreement or in any other way.

Commencement Information

I325 Sch. 6 para. 2 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

3 A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a scheme is conclusive evidence for all purposes of that fact.

Commencement Information

I326 Sch. 6 para. 3 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

Employment contracts

4 (1) This paragraph applies if rights and liabilities under a contract of employment are transferred by virtue of a scheme.

(2) The contract of employment—

(a) is not terminated by the transfer, and

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(b) has effect from the transfer date as if made between the employee and the transferee.

(3) The rights, powers, duties and liabilities of the transferor under or in connection with the contract are transferred to the transferee on the transfer date.

(4) Anything done before the transfer date by or in relation to the transferor in respect of the contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

(5) In particular, a period of employment with the transferor is to be treated as a period of employment with the transferee (and the transfer is not to be treated as interrupting the continuity of that employment).

(6) This paragraph is subject to paragraph 5.

Commencement Information

I327 Sch. 6 para. 4 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

5 (1) Rights and liabilities under a contract of employment are not transferred by virtue of a scheme if the employee objects to the transfer and informs the transferor or transferee of that fact.

(2) If the employee objects to the transfer and informs the transferor or transferee of that fact—

(a) the employee's contract of employment is terminated immediately before the transfer date, but

(b) the employee is not to be treated, for any purpose, as having been dismissed by the transferor.

Commencement Information

I328 Sch. 6 para. 5 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

6 If (apart from the change of employer) a substantial detrimental change is made to a person's working conditions, nothing in this Schedule affects any right the person has to terminate the person's contract of employment.

Commencement Information

I329 Sch. 6 para. 6 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

Civil servants treated as employed under a contract of employment etc.

7 (1) This Schedule applies with the following modifications in relation to employment in the civil service of the Crown on terms which do not constitute a contract of employment.

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(2) An individual who holds employment in the civil service of the Crown immediately before the transfer date is to be treated as employed by virtue of a contract of employment.

(3) The terms of the employment in the civil service of the Crown are to be regarded as constituting the terms of the contract of employment.

(4) The reference in paragraph 5 to dismissal by the transferor is to termination of the employment in the civil service of the Crown.

Commencement Information

I330 Sch. 6 para. 7 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

Compensation

8 A scheme may contain provision for the payment of compensation by the Secretary of State to any person whose interests are adversely affected by it.

Commencement Information

I331 Sch. 6 para. 8 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

Continuity

9 A transfer by virtue of a scheme does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.

Commencement Information

I332 Sch. 6 para. 9 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

10 Anything which—

(a) is done by the transferor for the purposes of, or otherwise in connection with, anything transferred by virtue of a scheme, and

(b) is in effect immediately before the transfer date,

is to be treated as done by the transferee.

Commencement Information

I333 Sch. 6 para. 10 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

11 There may be continued by or in relation to the transferee anything (including legal proceedings)—

(a) which relates to anything transferred by virtue of a scheme, and

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(b) which is in the process of being done by or in relation to the transferor immediately before the transfer date.

Commencement Information

I334 Sch. 6 para. 11 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

12 (1) This paragraph applies to any document—

(a) which relates to anything transferred by virtue of a scheme, and

(b) which is in effect immediately before the transfer date.

(2) Any references in the document to the transferor are to be read as references to the transferee.

Commencement Information

I335 Sch. 6 para. 12 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

Supplementary etc. provision

13 A scheme may include supplementary, incidental, transitional and consequential provision.

Commencement Information

I336 Sch. 6 para. 13 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

SCHEDULE 7

Sections 51(5), 65(5)

TRANSFER SCHEMES: TAX

Overview

1 This Schedule makes provision about the fiscal effect of transfers under schemes made under sections 51 and 65.

Commencement Information

I337 Sch. 7 para. 1 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

Key concepts

2 (1) In this Schedule—

(a) "transfer scheme" means a scheme under section 51 or 65, and

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(b) "transfer" means a transfer under a transfer scheme.

(2) In this Schedule "transfer between bodies" means a transfer—

(a) from the Urban Regeneration Agency, the Commission for the New Towns or the Housing Corporation, and

(b) to the HCA or the Regulator of Social Housing.

(3) In this Schedule "transfer to government" means a transfer to—

(a) a Minister of the Crown, or

(b) the Welsh Ministers.

Commencement Information

I338 Sch. 7 para. 2 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

Other definitions

3 (1) In this Schedule—

(a) ICTA means the Income and Corporation Taxes Act 1988 (c. 1),

(b) TCGA means the Taxation of Chargeable Gains Act 1992 (c. 12),

(c) FA 1996 means the Finance Act 1996 (c. 8),

(d) FA 2002 means the Finance Act 2002 (c. 23), and

(e) HMRC means the Commissioners for Her Majesty's Revenue and Customs.

(2) In this Schedule a reference to a trade includes a reference to part of a trade.

Commencement Information

I339 Sch. 7 para. 3 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

Corporation tax: continuity of trade

4 (1) This paragraph applies if as the result of a transfer scheme—

(a) a transferor ceases a trade, and

(b) a transferee commences it.

(2) In connection with the computation of profits and losses for the purpose of corporation tax in respect of periods wholly or partly after the commencement of the transfer scheme—

(a) the transferee shall be treated as having always carried on the trade, and

(b) the trade shall be considered separately from any other trade of the transferee (with any necessary apportionment being made).

Commencement Information

I340 Sch. 7 para. 4 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

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Corporation tax: capital allowances

5 (1) This paragraph applies in respect of property transferred under a transfer scheme from—
(a) the Urban Regeneration Agency, or
(b) the Commission for the New Towns.

(2) Where the property was used by the transferor, and is to be used by the transferee, in connection with a trade, section 343(2) of ICTA (company reconstructions: capital allowances) shall apply.

Commencement Information
I341 Sch. 7 para. 5 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

6 The following transfers shall be treated as giving rise to neither allowance nor charge for the purposes of capital allowances in respect of a trade (and allowances shall be calculated as if the transferee had always carried on the trade)—
(a) a transfer from the Housing Corporation, and
(b) a transfer to government.

Commencement Information
I342 Sch. 7 para. 6 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

Corporation tax: capital gains

7 (1) This paragraph applies in respect of property transferred under a transfer scheme from—
(a) the Urban Regeneration Agency,
(b) the Commission for the New Towns, or
(c) the Housing Corporation.

(2) Section 17 of TCGA (disposals and acquisitions treated as at market value) shall not apply.

(3) For the purposes of TCGA the transfer (in relation to the transferor and the transferee) is to be taken as being a disposal for a consideration such that neither gain nor loss accrues.

Commencement Information
I343 Sch. 7 para. 7 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

8 A transfer shall be disregarded for the purposes of section 30 of TCGA (value-shifting: tax-free benefits).

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Commencement Information

I344 Sch. 7 para. 8 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

F31 9 . . . . . .

Textual Amendments

F31 Sch. 7 para. 9 repealed (1.12.2008) by Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), art. 1(2), Sch. 1 para. 59, **Sch. 3** (with Sch. 2) (see S.I. 2008/3068, art. 2(1)(b))

Commencement Information

I345 Sch. 7 para. 9 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

Corporation tax: intangible assets

10 (1) This paragraph applies for the purposes of Schedule 29 to FA 2002 (intangible assets).

(2) Expressions used in this paragraph have the same meaning as in that Schedule.

(3) A transfer between bodies of a chargeable intangible asset is a tax-neutral transfer.

(4) An intangible fixed asset which is an existing asset of the transferor at the time of a transfer between bodies is to be treated, on and after the transfer, as an existing asset of the transferee.

(5) A transfer to government of a chargeable intangible asset is to be treated as not involving a realisation of the asset by the transferor.

Commencement Information

I346 Sch. 7 para. 10 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

Corporation tax: loan relationships

11 (1) If as a result of a transfer the transferee replaces the transferor as a party to a loan relationship, paragraph 12(2) of Schedule 9 to FA 1996 (transfer within group: continuity of treatment) shall apply (whether or not the transferor and transferee are bodies corporate).

(2) Expressions used in this paragraph have the same meaning as in that Schedule.

Commencement Information

I347 Sch. 7 para. 11 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

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Stamp duty

12 (1) Stamp duty shall not be chargeable on a transfer scheme.

(2) Stamp duty shall not be chargeable on a document certified by HMRC as connected with a transfer scheme.

(3) A document which is not chargeable by virtue of this paragraph must be stamped in accordance with section 12 of the Stamp Act 1891 (c. 39) with a stamp denoting that it is not chargeable.

Commencement Information

I348 Sch. 7 para. 12 in force at 8.9.2008 as it applies in relation to, or makes provision about the tax implications of, schemes under ss. 51 and 65 by S.I. 2008/2358, **arts. 2(1)**, 3(1)

SCHEDULE 8

Section 56

AMENDMENTS OF ENACTMENTS: PART 1

Public Records Act 1958 (c. 51)

1 In Schedule 1 to the Public Records Act 1958 (definition of public records), at the end of paragraph 3, in Part 2 of the Table, insert at the appropriate place— " The Homes and Communities Agency. "

Commencement Information

I349 Sch. 8 para. 1 in force at 8.9.2008 by S.I. 2008/2358, **art. 2(2)**

Land Compensation Act 1961 (c. 33)

2 In section 23(3) of the Land Compensation Act 1961 (compensation where planning decision made after acquisition: exclusions) for paragraph (d) and the word "or" before it substitute "or

(d) under Part 1 of the Housing and Regeneration Act 2008 (acquisition by the Homes and Communities Agency)."

Commencement Information

I350 Sch. 8 para. 2 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Public Health Act 1961 (c. 64)

3 In Schedule 4 to the Public Health Act 1961 (attachment of street lighting equipment to certain buildings), in the first column of the Table, for the words from "Commission" to "1959" substitute " Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008 ".

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Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I351 Sch. 8 para. 3 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Parliamentary Commissioner Act 1967 (c. 13)

4 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation)—

(a) insert, at the appropriate place, " Homes and Communities Agency ",

(b) insert, in the Notes after the paragraph relating to the Treasury—
Homes and Communities Agency

In the case of the Homes and Communities Agency no investigation is to be conducted in respect of any action in connection with functions in relation to town and country planning.",

(c) omit the entries for the Commission for the New Towns and the Urban Regeneration Agency, and

(d) omit the Notes relating to the Commission for the New Towns and the Urban Regeneration Agency.

Commencement Information
I352 Sch. 8 para. 4(c)(d) in force at 1.4.2009 by S.I. 2009/803, **art. 3(2)**(3)
I353 Sch. 8 para. 4(a)(b) in force at 8.9.2008 by S.I. 2008/2358, **art. 2(2)**

Leasehold Reform Act 1967 (c. 88)

5 The Leasehold Reform Act 1967 is amended as follows.

Commencement Information
I354 Sch. 8 para. 5 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

6 In section 28(5)(b) (retention or resumption of land required for public purposes) for "Commission for the New Towns" substitute " new towns residuary body ".

Commencement Information
I355 Sch. 8 para. 6 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

7 (1) Section 29 (reservation of future right to develop) is amended as follows.

(2) In subsection (6)—

(a) in paragraph (a) for "Commission for the New Towns" substitute " new towns residuary body ", and

(b) for "that Commission" substitute " that residuary body ".

(3) In subsection (7) for "Commission for the New Towns" substitute " Welsh new towns residuary body ".

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Commencement Information
I356 Sch. 8 para. 7 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

8 In section 30(7)(a) (reservation of right of pre-emption in new town or overspill area) for "Commission for the New Towns" substitute " new towns residuary body ".

Commencement Information
I357 Sch. 8 para. 8 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

9 In section 33 (Crown land) after subsection (2) insert—

"(2A) For the purposes of this Part of this Act, an interest belonging to the Welsh new towns residuary body in a tenancy of land is to be treated as if it were not an interest belonging to the Crown."

Commencement Information
I358 Sch. 8 para. 9 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

10 In section 37(1) (interpretation of Part 1) after paragraph (b) insert—

"(ba) "new towns residuary body" means—

(i) in relation to England, the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008; and

(ii) in relation to Wales, means the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) to (iii) of the New Towns Act 1981 (and references to the "Welsh new towns residuary body" shall be construed accordingly);".

Commencement Information
I359 Sch. 8 para. 10 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

11 (1) Schedule 4 (re-acquisition for development) is amended as follows.

(2) In the heading for Part 2 for "NEW TOWNS COMMISSION" substitute " WELSH NEW TOWNS RESIDUARY BODY ".

(3) In paragraph 4—

(a) for "Commission for the New Towns" substitute " Welsh new towns residuary body ",

(b) for "the Commission, the Commission" substitute " that body, the body ", and

(c) omit the words from "be authorised" to "Government to".

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Commencement Information
I360 Sch. 8 para. 11 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

12 In paragraph 2(2)(c) of Schedule 4A (exclusion of certain shared ownership leases) for "Commission for the New Towns" substitute " new towns residuary body ".

Commencement Information
I361 Sch. 8 para. 12 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

National Loans Act 1968 (c. 13)

13 In Schedule 1 to the National Loans Act 1968 (Government lending and advances) in the entry relating to the New Towns Act 1981 (c. 64)—
(a) in column 1 omit "(5)(6)", and
(b) in column 2 omit "and the Commission for the New Towns".

Commencement Information
I362 Sch. 8 para. 13 in force at 1.4.2009 by S.I. 2009/803, **art. 3(2)**(3)

Local Government Act 1972 (c. 70)

14 The Local Government Act 1972 is amended as follows.

Commencement Information
I363 Sch. 8 para. 14 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

15 (1) Section 100J (application of Part 5A of the Act to new authorities, Common Council, etc.) is amended as follows.

(2) In subsection (1) after paragraph (f) insert—
"(g) the Homes and Communities Agency so far as it is exercising functions conferred on it in relation to a designated area by virtue of a designation order."

(3) After subsection (2) insert—

"(2A) In its application by virtue of subsection (1)(g) above in relation to the Homes and Communities Agency, a reference in this Part to the offices of the council (however expressed)—
(a) is to be treated as a reference to such premises located within the designated area as the Homes and Communities Agency considers appropriate, and
(b) in the application of section 100A(6)(a) above to a case where the meeting is to be held at premises other than those mentioned in paragraph (a) above, includes a reference to those other premises."

(4) After subsection (3) insert—

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"(3ZA) In its application by virtue of subsection (1)(g) above in relation to the Homes and Communities Agency, section 100E above shall have effect as if—

(a) in subsection (2), paragraph (c) was omitted, and

(b) in subsection (3), for paragraphs (a) to (c) there were substituted—

"(a) a committee established under paragraph 6(1) of Schedule 1 to the Housing and Regeneration Act 2008 for the purpose of exercising functions conferred on the Homes and Communities Agency in relation to a designated area by virtue of a designation order; or

(b) a sub-committee of such a committee established under paragraph 6(2) of that Schedule to that Act for that purpose."

(3ZB) In its application by virtue of subsection (1)(g) above in relation to the Homes and Communities Agency, section 100G(1) above shall have effect as if paragraph (a) was omitted."

(5) After subsection (4A) insert—

"(4B) In this section "designated area" and "designation order" have the same meanings as in Part 1 of the Housing and Regeneration Act 2008."

Commencement Information

I364 Sch. 8 para. 15 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

16 In section 100K (interpretation and application of Part 5A) in the definition of "committee or sub-committee of a principal council" at the end insert " (and see section 100J(3ZA)(b) above) ".

Commencement Information

I365 Sch. 8 para. 16 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Land Compensation Act 1973 (c. 26)

17 (1) Section 39 of the Land Compensation Act 1973 (duty to rehouse residential occupiers) is amended as follows.

(2) In subsection (4)(d) for "Commission for the New Towns" substitute " new towns residuary body ".

(3) In subsection (8)—

(a) in paragraph (a) for "Commission for the New Towns" substitute " new towns residuary body ", and

(b) in paragraph (c) for "Commission for the New Towns, the Commission" substitute " new towns residuary body, that body ".

(4) In subsection (9)—

(a) after "section" insert "—

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(a) ", and

(b) at the end insert—

"(b) "new towns residuary body" means—

(i) in relation to England, the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008; and

(ii) in relation to Wales, the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) to (iii) of the New Towns Act 1981."

Commencement Information

I366 Sch. 8 para. 17 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Local Government Act 1974 (c. 7)

18 (1) The Local Government Act 1974 is amended as follows.

(2) In section 25(1) (authorities subject to investigation)—

(a) omit paragraph (ba), and

(b) in paragraph (bf), for "Urban Regeneration" substitute " Homes and Communities ".

(3) In section 26(7) (matters subject to investigation)—

(a) omit paragraph (a), and

(b) in paragraph (ba)—

(i) for "Urban Regeneration" substitute " Homes and Communities ", and

(ii) for "Part III of the Leasehold Reform, Housing and Urban Development Act 1993" substitute " Part 1 of the Housing and Regeneration Act 2008 ".

(4) In paragraph 8 of Schedule 5 (matters not subject to investigation) for "Urban Regeneration" substitute " Homes and Communities ".

Commencement Information

I367 Sch. 8 para. 18 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

House of Commons Disqualification Act 1975 (c. 24)

19 (1 Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) is amended as follows.

(2 Insert at the appropriate place— " The Homes and Communities Agency. "

(3) Omit the entries relating to—

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(a) the Commission for the New Towns, and
(b) the Urban Regeneration Agency.

Commencement Information
I368 Sch. 8 para. 19(1)(2) in force at 8.9.2008 by S.I. 2008/2358, **art. 2(2)**
I369 Sch. 8 para. 19(3)(a)(b) in force at 1.4.2009 by S.I. 2009/803, **art. 3(2)**(3)

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

20 (1 Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified) is amended as follows.

(2 Insert at the appropriate place— " The Homes and Communities Agency. "

(3) Omit the entry relating to the Urban Regeneration Agency.

Commencement Information
I370 Sch. 8 para. 20(1)(2) in force at 8.9.2008 by S.I. 2008/2358, **art. 2(2)**
I371 Sch. 8 para. 20(3) in force at 1.4.2009 by S.I. 2009/803, **art. 3(2)**(3)

Race Relations Act 1976 (c. 74)

21 (1 Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty) is amended as follows.

(2 In Part 1, after paragraph 52, insert—

"52A The Homes and Communities Agency."

(3) In Part 2, omit the entry relating to English Partnerships.

Commencement Information
I372 Sch. 8 para. 21(1)(2) in force at 8.9.2008 by S.I. 2008/2358, **art. 2(2)**
I373 Sch. 8 para. 21(3) in force at 1.4.2009 by S.I. 2009/803, **art. 3(2)**(3)

Rent (Agriculture) Act 1976 (c. 80)

22 (1) Section 5 of the Rent (Agriculture) Act 1976 (no statutory tenancy where landlord's interest belongs to certain bodies) is amended as follows.

(2) In subsection (3)(c) for "Commission for the New Towns" substitute " English new towns residuary body ".

(3) After subsection (3) insert—

"(3A) In subsection (3)(c) above "English new towns residuary body" means the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008."

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Commencement Information
I374 Sch. 8 para. 22 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Rent Act 1977 (c. 42)

23 (1) Section 14 of the Rent Act 1977 (landlord's interest belonging to local authority, etc.) is amended as follows.

(2) At the beginning insert "(1)".

(3) In paragraph (d) for "Commission for the New Towns" substitute " English new towns residuary body ".

(4) At the end insert—

"(2) In subsection (1)(d) "English new towns residuary body" means the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008."

Commencement Information
I375 Sch. 8 para. 23 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Protection from Eviction Act 1977 (c. 43)

24 (1) Section 3A of the Protection from Eviction Act 1977 (excluded tenancies and licences) is amended as follows.

(2) In subsection (8)(c) for "Commission for the New Towns" substitute " new towns residuary body ".

(3) After subsection (8) insert—

"(8A) In subsection (8)(c) above "new towns residuary body" means—

(a) in relation to England, the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008; and

(b) in relation to Wales, means the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) to (iii) of the New Towns Act 1981."

Commencement Information
I376 Sch. 8 para. 24 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Local Government, Planning and Land Act 1980 (c. 65)

25 The Local Government, Planning and Land Act 1980 is amended as follows.

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Commencement Information
I377 Sch. 8 para. 25 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

26 In section 4(4) (power to direct bodies to publish information) omit paragraph (b).

Commencement Information
I378 Sch. 8 para. 26 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

27 In section 93 (public bodies to whom Part 10 applies) after subsection (1) insert—

"(1A) Sections 95 to 96A also apply to the Homes and Communities Agency so far as it is exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008 (and references to a body to which this Part of this Act applies in those sections are to be read accordingly)."

Commencement Information
I379 Sch. 8 para. 27 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

28 In section 99(4)(e) (directions to dispose of land: supplementary) omit "the Commission for the New Towns,".

Commencement Information
I380 Sch. 8 para. 28 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

29 In section 165A(2) (transfer by order of property etc. of urban development corporations to the Secretary of State etc.)—

(a) in paragraph (a) for the words from "177" to "Agency)" substitute " 42 of the Housing and Regeneration Act 2008 (agency arrangements with urban development corporations) ", and

(b) in paragraph (b) for "subsection (2)" substitute " subsections (5) and (6) ".

Commencement Information
I381 Sch. 8 para. 29 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

30 In section 165B(2) (transfer by order of property etc. of urban development corporations to statutory bodies)—

(a) in paragraph (a) for the words from "177" to "Agency)" substitute " 42 of the Housing and Regeneration Act 2008 (agency arrangements with urban development corporations) ", and

(b) in paragraph (b) for "subsection (2)" substitute " subsections (5) and (6) ".

Commencement Information
I382 Sch. 8 para. 30 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

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31 In Schedule 16 (bodies to whom Part 10 applies) omit paragraph 6.

Commencement Information
I383 Sch. 8 para. 31 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Highways Act 1980 (c. 66)

32 (1) Section 219 of the Highways Act 1980 (payments to be made by owners of new buildings in respect of street works) is amended as follows.

(2) In subsection (4)(i)(iii), for "Commission for the New Towns" substitute " new towns residuary body ".

(3) After subsection (4A) insert—

"(4B) In subsection (4)(i)(iii) "new towns residuary body" means—

(a) in relation to England, the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008; and

(b) in relation to Wales, the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) to (iii) of the New Towns Act 1981."

Commencement Information
I384 Sch. 8 para. 32 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66)

33 (1) The Compulsory Purchase (Vesting Declarations) Act 1981 is amended as follows.

(2) In section 15 (application of Act to orders under section 161(1) of the Leasehold Reform, Housing and Urban Development Act 1993) omit the words from "or under subsection (1)" to "similar provision)".

(3) In Schedule 2 (modifications of Act in certain cases)—

(a) in paragraph 1 omit the words from "or under subsection (1)" to "contains similar provision)", and

(b) in paragraph 3 for "the housing action trust or the Urban Regeneration Agency (as the case may be)" substitute " or the housing action trust (as the case may be) ".

Commencement Information
I385 Sch. 8 para. 33 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

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Local Government (Miscellaneous Provisions) Act 1982 (c. 30)

34 (1) Paragraph 2 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 (street trading) is amended as follows.

(2) In sub-paragraph (5)(b) for "Commission for the New Towns" substitute " new towns residuary body ".

(3) After sub-paragraph (5) insert—

"(5A) In sub-paragraph (5)(b) above "new towns residuary body" means—

(a) in relation to England, the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008; and

(b) in relation to Wales, the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) to (iii) of the New Towns Act 1981."

Commencement Information

I386 Sch. 8 para. 34 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

VALID FROM 01/04/2010

Housing Act 1985 (c. 68)

35 In Schedule 5 to the Housing Act 1985 (exceptions to the right to buy) in paragraph 3, at the end insert " , or section 19 of the Housing and Regeneration Act 2008 (financial assistance) which was a grant made on condition that the housing association provides social housing (and "provides social housing" has the same meaning as in Part 1 of that Act). "

Landlord and Tenant Act 1985 (c. 70)

36 In section 38 (minor definitions) of the Landlord and Tenant Act 1985, in the definition of "new town corporation", for paragraph (b) (and the word "or" immediately before it) substitute—

"(b) the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008, or

(c) the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) to (iii) of the New Towns Act 1981;".

Commencement Information

I387 Sch. 8 para. 36 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

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Landlord and Tenant Act 1987 (c. 31)

37 The Landlord and Tenant Act 1987 is amended as follows.

Commencement Information
I388 Sch. 8 para. 37 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

38 In section 21(3)(a) (tenant's right to apply to tribunal for appointment of manager)—

(a) after "by" insert "—

(i) ", and

(b) after "resident landlord," insert "or

(ii) the Welsh Ministers in their new towns residuary capacity,".

Commencement Information
I389 Sch. 8 para. 38 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

39 In section 29(7)(a) (conditions for making acquisition orders)—

(a) after "by" insert "—

(i) ", and

(b) after "resident landlord," insert "or

(ii) the Welsh Ministers in their new towns residuary capacity,".

Commencement Information
I390 Sch. 8 para. 39 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

40 In section 58(1) (exempt landlords and resident landlords)—

(a) in paragraph (b) omit "the Commission for the New Towns or", and

(b) after paragraph (de) insert—

"(df) the Homes and Communities Agency;".

Commencement Information
I391 Sch. 8 para. 40 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

41 In section 60 (general interpretation) after subsection (1) insert—

"(1A) In this Act a reference to the Welsh Ministers in their new towns residuary capacity means the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) to (iii) of the New Towns Act 1981."

Commencement Information
I392 Sch. 8 para. 41 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

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Income and Corporation Taxes Act 1988 (c. 1)

42 In section 376(4) of the Income and Corporation Taxes Act 1988 (qualifying borrowers and qualifying lenders) for paragraph (j) substitute—

"(j) the Homes and Communities Agency;".

Commencement Information

I393 Sch. 8 para. 42 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Local Government Act 1988 (c. 9)

43 In Schedule 2 to the Local Government Act 1988 (public supply or works contracts: public authorities) for "The Commission for the New Towns." substitute— " The Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008. "

Commencement Information

I394 Sch. 8 para. 43 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

VALID FROM 01/04/2010

Housing Act 1988 (c. 50)

44 The Housing Act 1988 is amended as follows.

45 In the italic heading before section 50 omit ": functions of Relevant Authority".

46 Omit sections 50 (housing association grants) and 51 (revenue deficit grants).

47 (1) Section 52 (recovery etc. of grants) is amended as follows.

(2) For "Relevant Authority", wherever it appears, substitute " appropriate authority ".

(3) In subsections (1) and (5)(b) for "housing association which is a registered social landlord" substitute " relevant housing association ".

(4) After subsection (9) insert—

"(9A) In this section and sections 53 and 54—

"the appropriate authority"—

(a) in relation to an English relevant housing association, means the Homes and Communities Agency, and

(b) in relation to a Welsh relevant housing association, means the Welsh Ministers,

"relevant housing association" means—

(a) a housing association which is a registered provider of social housing ("an English relevant housing association"), and

(b) a housing association which is a registered social landlord ("a Welsh relevant housing association").

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(9B) In this section a reference to registration as a provider of social housing, so far as the context permits, is to be construed as including, in relation to times, circumstances and purposes before the commencement of section 111 of the Housing and Regeneration Act 2008, a reference to registration under—

(a) Part 1 of the Housing Act 1996,

(b) Part 1 of the 1985 Act, or

(c) any corresponding earlier enactment."

48 (1) Section 53 (determinations under Part 2) is amended as follows.

(2) In subsection (2) for "Housing Corporation" substitute " Homes and Communities Agency ".

(3) In subsection (3) for "Relevant Authority", in both places where it appears, substitute " appropriate authority ".

(4) In subsection (4) for "any provision of sections 50 to" substitute " section ".

49 In section 54(2)(a) (tax relief grants) for "a registered social landlord" substitute " a relevant housing association ".

50 In section 59(1A) (interpretation of Part 2 etc.) for "50" substitute " 52 ".

Local Government and Housing Act 1989 (c. 42)

51 In section 172(8) of the Local Government and Housing Act 1989 (transfers of new town housing stock) in the definition of "new town corporation" omit "the Commission for the New Towns or".

Commencement Information

I395 Sch. 8 para. 51 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Town and Country Planning Act 1990 (c. 8)

52 (1) Section 8A of the Town and Country Planning Act 1990 (the Urban Regeneration Agency) is amended as follows.

(2) In the heading for "Urban Regeneration" substitute " Homes and Communities ".

(3) In subsection (1)—

(a) for "section 170 of the Leasehold Reform, Housing and Urban Development Act 1993" substitute " section 13 of the Housing and Regeneration Act 2008 ",

(b) for "subsection (1) of section 171" substitute " section 14(2) ", and

(c) for "Urban Regeneration" substitute " Homes and Communities ".

(4) Omit subsection (2).

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I396 Sch. 8 para. 52 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

53 In Schedule 4 to the Planning (Listed Buildings and Conservation Areas) Act 1990 (further provisions as to exercise of functions by different authorities), in paragraph 2, for "and housing action areas" substitute " , housing action areas and areas for which the Homes and Communities Agency is the local planning authority ".

Commencement Information
I397 Sch. 8 para. 53 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Planning (Hazardous Substances) Act 1990 (c. 10)

54 In section 3 of the Planning (Hazardous Substances) Act 1990 (hazardous substances authorities: special cases) for subsection (5A) substitute—

"(5A) The power to make a designation order under section 13 of the Housing and Regeneration Act 2008 which contains provision of the kind mentioned in section 14(3) of that Act does not extend to providing for the Homes and Communities Agency to be the hazardous substances authority (whether instead of, or concurrently with, a county council) in relation to land to which subsection (1) above applies.

(5B) Subject to this, section 1 and this section are subject to any provision made by such an order."

Commencement Information
I398 Sch. 8 para. 54 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Water Industry Act 1991 (c. 56)

55 The Water Industry Act 1991 is amended as follows.

Commencement Information
I399 Sch. 8 para. 55 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

56 In section 41(2)(d)(i) (power to require the provision of a water main) for "Commission for the New Towns" substitute " new towns residuary body ".

Commencement Information
I400 Sch. 8 para. 56 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

57 In section 97(5) (performance of sewerage undertaker's functions by local authorities etc.)—

(a) in the definition of "relevant area" for paragraph (b) substitute—

"(b) in relation to the English new towns residuary body, means any new town in England;

(ba) in relation to the Welsh new towns residuary body, means any new town in Wales;", and

(b) in the definition of "relevant authority" in paragraph (b) for "Commission for the New Towns" substitute " new towns residuary body ".

Commencement Information

I401 Sch. 8 para. 57 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

58 In section 98 (power to require the provision of a public sewer etc.)—

(a) in subsection (2)(d)(i) for "Commission for the New Towns" substitute " new towns residuary body ", and

(b) in subsection (2A)(d)(i) for "Commission for the New Towns" substitute " new towns residuary body ".

Commencement Information

I402 Sch. 8 para. 58 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

59 In section 219(1) (general interpretation) after the definition of "navigation authority" insert—

""new towns residuary body" means—

(a) in relation to a new town in England, the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) or (b) of the Housing and Regeneration Act 2008 (and references to the "English new towns residuary body" are to be read accordingly); and

(b) in relation to a new town in Wales, the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) or (ii) of the New Towns Act 1981 (and references to the "Welsh new towns residuary body" are to be read accordingly);".

Commencement Information

I403 Sch. 8 para. 59 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Water Resources Act 1991 (c. 57)

60 (1) Section 72 of the Water Resources Act 1991 (interpretation of Chapter 2 of Part 2) is amended as follows.

(2) In subsection (2)(a)(iii) for "Commission for the New Towns" substitute " new towns residuary body ".

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) After subsection (2) insert—

"(2A) In subsection (2)(a)(iii) "new towns residuary body" means—

(a) in relation to England, the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008; and

(b) in relation to Wales, the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) to (iii) of the New Towns Act 1981."

Commencement Information

I404 Sch. 8 para. 60 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Social Security Administration Act 1992 (c. 5)

61 In section 191 (interpretation: general), in the definition of "new town corporation", for paragraph (a) (but not the "and" following it) substitute—

"(a) in relation to England—

(i) a development corporation established under the New Towns Act 1981; or

(ii) the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008;

(ab) in relation to Wales—

(i) a development corporation established under the New Towns Act 1981; and

(ii) the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) to (iii) of that Act;".

Commencement Information

I405 Sch. 8 para. 61 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Taxation of Chargeable Gains Act 1992 (c. 12)

62 In section 219(1) of the Taxation of Chargeable Gains Act 1992 (disposals by Housing Corporation etc.)—

(a) in paragraph (a) before "disposes" insert " or the Homes and Communities Agency ",

(b) in paragraph (d) at the end insert " or the Homes and Communities Agency ", and

(c) in the words after paragraph (d)—

(i) before ", relevant housing" insert " , the Homes and Communities Agency ", and

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Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) before "or, as the case" insert " , the Homes and Communities Agency ".

Commencement Information

I406 Sch. 8 para. 62 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

63 (1) The Leasehold Reform, Housing and Urban Development Act 1993 is amended as follows.

(2) Omit—

(a) sections 158 to 173, 175, 177 and 183 to 185, and

(b) Schedules 17 to 20,

(provisions about the Urban Regeneration Agency).

(3) In section 188(6) (extent etc.) omit paragraph (b) and the "and" before it.

Commencement Information

I407 Sch. 8 para. 63 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

I408 Sch. 8 para. 63 in force at 1.4.2009 in so far as not already in force by S.I. 2009/803, **art. 3(2)**(3)

Finance Act 1996 (c. 8)

64 (1) Section 43A of the Finance Act 1996 (landfill tax in relation to contaminated land) is amended as follows.

(2) In subsection (5) omit paragraph (e).

(3) In subsection (6) omit the definition of "English Partnerships".

Commencement Information

I409 Sch. 8 para. 64 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

VALID FROM 01/04/2010

Housing Act 1996 (c. 52)

65 (1) Section 28 of the Housing Act 1996 (grants under sections 50 to 54 of the Housing Act 1988) is amended as follows.

(2) Omit subsections (1), (2) and (6).

(3) In the heading for "ss 50 to 54" substitute " Part 2 ".

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Regional Development Agencies Act 1998 (c. 45)

66 The Regional Development Agencies Act 1998 is amended as follows.

Commencement Information
I410 Sch. 8 para. 66 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

67 Omit section 36 (transfer of property etc. of Urban Regeneration Agency) and the italic heading before it.

Commencement Information
I411 Sch. 8 para. 67 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

68 Omit section 37 (powers in relation to the Urban Regeneration Agency).

Commencement Information
I412 Sch. 8 para. 68 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

69 In section 38(10) (corporation tax)—

(a) in the definition of "qualifying transfer" omit paragraph (b), and

(b) in the definition of "transfer scheme" for "any of sections 34 to 37" substitute " section 34 or 35 ".

Commencement Information
I413 Sch. 8 para. 69 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

70 In section 39(4)(b) (stamp duty) for "any of sections 34 to 37 and" substitute " section 34 or 35 or ".

Commencement Information
I414 Sch. 8 para. 70 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

71 Omit Schedule 9 (the Urban Regeneration Agency: transfer schemes).

Commencement Information
I415 Sch. 8 para. 71 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Greater London Authority Act 1999 (c. 29)

72 The Greater London Authority Act 1999 is amended as follows.

Commencement Information
I416 Sch. 8 para. 72 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

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73 (1) Section 333A (the London housing strategy) is amended as follows.

(2) In subsection (3)—

(a) in paragraph (a) for "Housing Corporation for the purpose of making housing grant" substitute " Homes and Communities Agency ", and

(b) in paragraph (b)—

(i) for "Housing Corporation", in the first place where it appears, substitute " Homes and Communities Agency ",

(ii) for "making housing grant" substitute " giving housing financial assistance ", and

(iii) omit the words from "(and see also" to the end of the paragraph.

(3) In subsection (4)—

(a) in paragraph (a)—

(i) for "grant", in both places where it appears, substitute " housing financial assistance ",

(ii) for "made" substitute " given ", and

(iii) for "payable" substitute " given ", and

(b) in paragraph (b) for "grant" substitute " housing financial assistance ".

(4) In subsection (8)(a) for "Housing Corporation" substitute " Homes and Communities Agency ".

(5) In subsection (10)—

(a) for the definition of "housing grant" substitute—

""housing financial assistance" means financial assistance given under section 19 of the Housing and Regeneration Act 2008 in connection with the provision of housing accommodation;",

(b) after the definition of "local housing authority" insert—

""provide", in relation to houses or housing accommodation, includes—

(a) provide by way of acquisition, construction, conversion, improvement or repair; and

(b) provide indirectly;", and

(c) omit the words from "and the reference" to the end.

Commencement Information

I417 Sch. 8 para. 73 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

74 In section 333D (duty to have regard to the London housing strategy)—

(a) in the heading for "Housing Corporation" substitute " Homes and Communities Agency ", and

(b) in subsection (1) for the words from "under" to "Corporation" substitute " relating to Greater London and conferred by or under Part 1 of the Housing and Regeneration Act 2008 (other than any function conferred by virtue of section 13 or 14 of that Act), the Homes and Communities Agency ".

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Commencement Information
I418 Sch. 8 para. 74 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

75 (1) Section 408 (transfers of property, rights or liabilities) is amended as follows.

(2) In subsection (3) omit paragraphs (h) and (i).

(3) Omit subsection (6).

Commencement Information
I419 Sch. 8 para. 75 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

76 In section 409 (transfer schemes) omit subsection (5).

Commencement Information
I420 Sch. 8 para. 76 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Freedom of Information Act 2000 (c. 36)

77 (1 Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities) is amended as follows.

(2 Insert at the appropriate place— " The Homes and Communities Agency. "

(3) Omit the entries relating to—

(a) the Commission for the New Towns, and

(b) the Urban Regeneration Agency.

Commencement Information
I421 Sch. 8 para. 77(1)(2) in force at 8.9.2008 by S.I. 2008/2358, **art. 2(2)**
I422 Sch. 8 para. 77(3) in force at 1.4.2009 by S.I. 2009/803, **art. 3(2)**(3)

Finance Act 2003 (c. 14)

78 The Finance Act 2003 is amended as follows.

Commencement Information
I423 Sch. 8 para. 78 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

79 In section 71(4) (certain acquisitions by registered social landlord exempt from charge to stamp duty land tax) after paragraph (c) insert—

"(ca) under section 19 of the Housing and Regeneration Act 2008 (financial assistance by the Homes and Communities Agency),".

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Commencement Information
I424 Sch. 8 para. 79 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

80 (1) Schedule 9 (stamp duty land tax: right to buy, shared ownership leases etc.) is amended as follows.

(2) In paragraph 1(3)—

(a) after "*and development corporations*" insert " *etc.* ", and

(b) for "Commission for the New Towns" substitute " Homes and Communities Agency ".

(3) In paragraph 5(2) for paragraph (e) substitute—

"(e) the Homes and Communities Agency;".

Commencement Information
I425 Sch. 8 para. 80 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Planning and Compulsory Purchase Act 2004 (c. 5)

81 In section 37 of the Planning and Compulsory Purchase Act 2004 (interpretation of Part 2), after subsection (5), insert—

"(5A) Subsection (4) must also be construed subject to any designation order under section 13 of the Housing and Regeneration Act 2008 (power to make designation orders) providing that the Homes and Communities Agency is to be the local planning authority—

(a) for an area specified in the order, and

(b) for all purposes of this Part or any such purposes so specified.

(5B) Where such an order makes such provision, the Homes and Communities Agency is the local planning authority for the area and the purposes concerned in place of any authority who would otherwise be the local planning authority for that area and those purposes."

Commencement Information
I426 Sch. 8 para. 81 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

Finance Act 2004 (c. 12)

82 In section 59(1)(f) of the Finance Act 2004 (contractors) for "Commission for the New Towns" substitute " Homes and Communities Agency ".

Commencement Information
I427 Sch. 8 para. 82 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

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Local Government and Public Involvement in Health Act 2007 (c. 28)

83 In section 104(4) of the Local Government and Public Involvement in Health Act 2007 (partner authorities), after paragraph (e), insert—

"(ea) the Homes and Communities Agency;".

Commencement Information

I428 Sch. 8 para. 83 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(w)**(3) (with arts. 6-13)

SCHEDULE 9

Section 277

AMENDMENTS OF ENACTMENTS: PART 2

Public Records Act 1958 (c. 51)

1 In Part 2 of the Table at the end of paragraph 3 of Schedule 1 to the Public Records Act 1958 (bodies whose records are public records) insert at the appropriate place — " Office for Tenants and Social Landlords. "

Commencement Information

I429 Sch. 9 para. 1 in force at 8.9.2008 by S.I. 2008/2358, **art. 3(2)**

Parliamentary Commissioner Act 1967 (c. 13)

2 (1 Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation) is amended as follows.

(2 Insert at the appropriate place— " Office for Tenants and Social Landlords ".

(3) Omit the entry for the Housing Corporation.

Commencement Information

I430 Sch. 9 para. 2(1)(2) in force at 8.9.2008 by S.I. 2008/2358, **art. 3(2)**

I431 Sch. 9 para. 2(3) in force at 1.4.2009 by S.I. 2009/803, **art. 8**

House of Commons Disqualification Act 1975 (c. 24)

3 (1 Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) is amended as follows.

(2 Insert at the appropriate place— " Office for Tenants and Social Landlords. "

(3) Omit the entry for the Housing Corporation.

Commencement Information

I432 Sch. 9 para. 3(1)(2) in force at 8.9.2008 by S.I. 2008/2358, **art. 3(2)**

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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I433 Sch. 9 para. 3(3) in force at 1.4.2009 by S.I. 2009/803, **art. 8**

Race Relations Act 1976 (c. 74)

4 In paragraph 52 of Part 1 of Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty) for "Housing Corporation" substitute " Office for Tenants and Social Landlords ".

Commencement Information

I434 Sch. 9 para. 4 in force at 1.12.2008 by S.I. 2008/3068, **art. 3** (with arts. 6-13)

VALID FROM 01/04/2010

Interpretation Act 1978 (c. 30)

5 In Schedule 1 to the Interpretation Act 1978 (defined expressions) at the appropriate place insert—

""Registered provider of social housing" has the meaning given by section 80(2) of the Housing and Regeneration Act 2008 (and "non-profit" and "profit-making" in connection with a provider have the meanings given by section 115 of that Act)."

Local Government, Planning and Land Act 1980 (c. 65)

6 In Schedule 16 to the Local Government, Planning and Land Act 1980 (bodies to whom Part X applies) for paragraph 9 substitute—

"9 The Regulator of Social Housing."

Commencement Information

I435 Sch. 9 para. 6 in force at 1.12.2008 by S.I. 2008/3068, **art. 3** (with arts. 6-13)

VALID FROM 01/04/2010

Inheritance Tax Act 1984 (c. 51)

7 In section 24A(2) of the Inheritance Tax Act 1984 (gifts to housing associations) before paragraph (a) insert—

"(za) a non-profit registered provider of social housing;".

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VALID FROM 01/04/2010

Housing Associations Act 1985 (c. 69)

8 The Housing Associations Act 1985 is amended as follows.

9 (1) Section 9 (control by Corporation of disposals of land by housing associations) is amended as follows.

(2) In subsection (1A)—

(a) for "the relevant Corporation", in both places, substitute " the relevant regulator ", and

(b) for paragraphs (a) to (c) substitute—

"(a) if the land is in England, the Regulator of Social Housing, and

(b) if the land is in Wales, the Welsh Ministers."

(3) For subsection (6) substitute—

"(6) Consent under this section must be in writing."

(4) For the heading substitute " Control of disposals by unregistered housing associations ".

10 (1) Section 10 (dispositions excepted from section 9) is amended as follows.

(2) In subsection (1) for paragraphs (a) to (c) substitute—

"(a) in the case of dispositions of land in England, the Regulator of Social Housing, and

(b) in the case of dispositions of land in Wales, the Welsh Ministers."

(3) Omit subsection (2)(e) and the "or" before it.

VALID FROM 01/04/2010

Income and Corporation Taxes Act 1988 (c. 1)

11 The Income and Corporation Taxes Act 1988 is amended as follows.

12 In section 376(4) (qualifying borrowers and qualifying lenders) for paragraph (k) substitute—

"(k) the Regulator of Social Housing,".

13 In section 488(7A) (co-operative housing associations)—

(a) at the beginning insert "In relation to a housing association which is a registered provider of social housing", and

(b) for paragraph (a) substitute "to the Regulator of Social Housing".

14 In section 489(5A) (self-build societies) for "Housing Corporation" substitute " Regulator of Social Housing ".

15 In section 506B(9) (transactions with substantial donors: exceptions)—

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) for "registered social landlord or housing association", in both places it appears, substitute " relevant housing provider ", and

(b) in paragraph (a) after "body" insert " which is a non-profit registered provider of social housing or which is ".

VALID FROM 01/04/2010

Taxation of Chargeable Gains Act 1992 (c. 12)

16 The Taxation of Chargeable Gains Act 1992 is amended as follows.

17 (1) Section 218 (disposals of land between the Housing Corporation, Secretary of State or Scottish Homes and housing associations) is amended as follows.

(2) For "the Housing Corporation", wherever appearing, substitute " the Regulator of Social Housing ".

(3) For "the Corporation", wherever appearing, substitute " the Regulator ".

(4) In subsection (1)(a) after "Housing Associations Act 1985" insert " , or in accordance with a requirement imposed under section 253 of the Housing and Regeneration Act 2008, ".

(5) In the heading to the section, and in the italic heading before it, for "Housing Corporation," substitute " Regulator of Social Housing, ".

18 (1) Section 219 (disposals by Housing Corporation, the Secretary of State, Scottish Homes and certain housing associations) is amended as follows.

(2) In subsection (1)—

(a) in paragraphs (a), (c) and (d) for "the Corporation" substitute " a housing regulator ",

(b) for "relevant housing association" and "association", wherever appearing, substitute " relevant housing provider ",

(c) in paragraph (c) after "given under" insert " section 167 of the Housing and Regeneration Act 2008, ", and

(d) in the words after paragraph (d) for "the Corporation", wherever appearing, substitute " the housing regulator ".

(3) In subsection (2)—

(a) for " "the Corporation" means the Housing Corporation" substitute "housing regulator" means the Regulator of Social Housing ", and

(b) for the definition of "relevant housing association" substitute—

""relevant housing provider" means—

(a) a non-profit registered provider of social housing,

(b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996, or

(c) a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001."

(4) For the heading substitute "Disposals by housing related bodies".

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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19 (1) Section 259 (gifts to housing associations) is amended as follows.

(2) In subsection (1)(a) for "relevant housing association" substitute " relevant housing provider ".

(3) In subsections (1)(b) and (2) for "association", wherever appearing, substitute " relevant housing provider ".

(4) For subsection (3) substitute—

"(3) In this section "relevant housing provider" means—

(a) a non-profit registered provider of social housing,

(b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996,

(c) a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001, or

(d) a registered housing association within the meaning of Part 2 of the Housing (Northern Ireland) Order 1992."

VALID FROM 01/04/2010

Audit Commission Act 1998 (c. 18)

20 The Audit Commission Act 1998 is amended as follows.

21 For section 40 substitute—

"**40 Studies relating to registered providers of social housing**

(1) The Commission may promote or undertake studies designed to improve the economy, efficiency and effectiveness of registered providers of social housing.

(2) The Commission may charge fees for promoting or undertaking studies under subsection (1) at the request of the Regulator of Social Housing.

(3) The Commission shall send the Regulator of Social Housing a report on any study under this section.

(4) The Commission may publish the report."

22 Omit sections 41 to 41B (functions in relation to registered social landlords).

23 (1) Section 41C (advice and assistance for registered social landlords) is amended as follows.

(2) In subsection (1)—

(a) for the first "registered social landlord" substitute " registered provider of social housing ", and

(b) for the second "registered social landlord" substitute " registered provider ".

(3) In the heading for "registered social landlords" substitute " registered providers of social housing ".

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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24 Omit section 43 (meaning of "registered social landlord").

25 In section 49(2A) (disclosure of information) for the words from "such information" to "except where" substitute " such information in any circumstances unless ".

26 In Schedule 1 (the Audit Commission) omit—
(a) paragraph 8(2)(c) and (ca), and
(b) paragraph 8A.

27 In paragraph 3 of Schedule 2A (interaction with other authorities) omit—
(a) paragraph (a) of the definition of "Audit Commission inspection", and
(b) paragraph (e) of the definition of "national studies functions".

Freedom of Information Act 2000 (c. 36)

28 (1 Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities) is amended as follows.

(2 Insert at the appropriate place— " Office for Tenants and Social Landlords. "

(3) Omit the entry for the Housing Corporation.

Commencement Information
I436 Sch. 9 para. 28(1)(2) in force at 8.9.2008 by S.I. 2008/2358, **art. 3(2)**
I437 Sch. 9 para. 28(3) in force at 1.4.2009 by S.I. 2009/803, **art. 8**

VALID FROM 01/04/2010

Finance Act 2003 (c. 14)

29 The Finance Act 2003 is amended as follows.

30 (1) Section 71 (certain acquisitions by registered social landlord exempt from charge to stamp duty land tax) is amended as follows.

(2) In subsections (1), (2) and (3) for "registered social landlord", wherever appearing, substitute " relevant housing provider ".

(3) After subsection (1) insert—

"(1A) In this section "relevant housing provider" means—
(a) a non-profit registered provider of social housing, or
(b) a registered social landlord."

31 (1) Paragraph 2 of Schedule 3 (stamp duty land tax: transactions exempt from charge) is amended as follows.

(2) In sub-paragraphs (1) and (2) for "registered social landlord" and "landlord", wherever appearing, substitute " relevant housing provider ".

(3) After sub-paragraph (2) insert—

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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"(2A) A "relevant housing provider" means—

(a) a non-profit registered provider of social housing, or

(b) a registered social landlord."

32 (1) Schedule 9 (stamp duty land tax: right to buy, shared ownership leases etc.) is amended as follows.

(2) In paragraph 1(3)—

(a) for "The Housing Corporation" substitute " The Regulator of Social Housing ", and

(b) after "The Northern Ireland Housing Executive" insert— " A non-profit registered provider of social housing ".

(3) In paragraph 1(5) after "social landlord" insert " or registered provider of social housing ".

(4) After paragraph 1(5) insert—

"(6) A grant under section 19 of the Housing and Regeneration Act 2008 which—

(a) is made by virtue of section 35 of that Act, or

(b) is otherwise made to a relevant provider of social housing (within the meaning of section 35 of that Act) in respect of discounts given by the provider on disposals of dwellings to tenants,

does not count as part of the chargeable consideration for a right to buy transaction to which the vendor is a relevant provider of social housing."

VALID FROM 01/04/2010

Finance Act 2004 (c. 12)

33 In section 59(1)(h) of the Finance Act 2004 (contractors) for "Housing Corporation" substitute " Regulator of Social Housing ".

VALID FROM 01/04/2010

Income Tax Act 2007 (c. 3)

34 In section 555 of the Income Tax Act 2007 (transactions with substantial donors: exceptions)—

(a) in subsections (2) and (3) for "registered social landlord or housing association" substitute " relevant housing provider ", and

(b) in subsection (3) after "body" insert " which is a non-profit registered provider of social housing or which is ".

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PROSPECTIVE

SCHEDULE 10

Section 285(3)

PENALTY CHARGE NOTICES

Contents of notice

1 A penalty charge notice given to a person under section 285 by an officer of an enforcement authority must—

(a) state the officer's belief that the person has committed a breach of duty,

(b) give such particulars of the circumstances as may be necessary to give reasonable notice of the breach of duty,

(c) require the person, within a period specified in the notice—

(i) to pay a penalty charge specified in the notice, or

(ii) to give notice to the enforcement authority that the person wishes the authority to review the notice,

(d) state the effect of paragraph 7,

(e) specify the person to whom, and the address at which, the penalty charge may be paid and the method or methods by which payment may be made, and

(f) specify the person to whom, and the address at which, a notice requesting a review may be sent (and to which any representations relating to the review may be addressed).

2 The penalty charge specified in the notice shall be of such amount (not exceeding £1,000) as may be prescribed for the time being by regulations made by the appropriate national authority.

3 (1) The period specified under paragraph 1(c) must not be less than 28 days beginning with the day after that on which the penalty charge notice was given.

(2) The enforcement authority may extend the period for complying with the requirement mentioned in paragraph 1(c) in any particular case if it considers it appropriate to do so.

Review and withdrawal of notice

4 (1) Sub-paragraph (2) applies if, within the period specified under paragraph 1(c) (or that period as extended under paragraph 3(2)), the recipient of the penalty charge notice gives notice to the enforcement authority requesting a review.

(2) The enforcement authority must—

(a) consider any representations made by the recipient and all other circumstances of the case,

(b) decide whether to confirm or withdraw the notice, and

(c) give notice of its decision to the recipient.

(3) A notice under sub-paragraph (2)(c) confirming the penalty charge notice must also state the effect of paragraph 6(1) to (4).

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(4) The enforcement authority must withdraw the penalty charge notice if it is not satisfied of one (or more) of the following—
- (a) that the recipient committed the breach of duty specified in the notice,
- (b) that the notice was given within the time allowed by section 285(2) and complies with the other requirements imposed by virtue of this Schedule, or
- (c) that, in the circumstances of the case, it was appropriate for a penalty charge notice to be given to the recipient.

5 The enforcement authority may give the recipient of a penalty charge notice a notice withdrawing the penalty charge notice if the authority considers that the penalty charge notice ought not to have been given.

Appeals

6 (1) The recipient of a penalty charge notice may appeal to the county court against the notice if the notice is confirmed by the enforcement authority after a review.

(2) The appeal must be made within the period of 28 days beginning with the day after that on which the notice under paragraph 4(2)(c) is given.

(3) The county court may extend the period for appealing against the notice.

(4) An appeal must be on one (or more) of the following grounds—
- (a) that the recipient did not commit the breach of duty specified in the penalty charge notice,
- (b) that the notice was not given within the time allowed by section 285(2) or does not comply with any other requirement imposed by virtue of this Schedule, or
- (c) that in the circumstances of the case it was inappropriate for the notice to be given to the recipient.

(5) An appeal is to be by way of a rehearing.

(6) On an appeal the court is to uphold the notice or quash it.

Recovery of penalty charge

7 (1) The amount of the penalty charge is recoverable from the recipient of the penalty charge notice as a debt owed to the enforcement authority unless—
- (a) the notice has been withdrawn or quashed, or
- (b) the charge has been paid.

(2) Proceedings for the recovery of the penalty charge may not be started before the end of the period mentioned in paragraph 4(1).

(3) Sub-paragraph (4) applies if, within that period, the recipient of the penalty charge notice gives notice to the enforcement authority that the recipient wishes the authority to review the penalty charge notice.

(4) Proceedings for the recovery of the penalty charge may not be started—
- (a) before the end of the period mentioned in paragraph 6(2), and
- (b) where the recipient appeals against the penalty charge notice, before the end of the period of 28 days beginning with the day on which the appeal is withdrawn or determined.

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8 In proceedings for the recovery of the penalty charge, a certificate which—

(a) purports to be signed by, or on behalf of, the person having responsibility for the financial affairs of the enforcement authority, and

(b) states that payment of the penalty charge was, or was not, received by a date specified in the certificate,

is evidence of the facts stated.

Repayments

9 The enforcement authority must repay any amount previously paid as a penalty charge in pursuance of a penalty charge notice if the notice is withdrawn or quashed.

Supplementary

10 (1) A penalty charge notice and any other notice mentioned in this Schedule may be given by post.

(2) Any such notice may be given—

(a) in the case of a body corporate (other than a limited liability partnership), to the secretary or clerk of that body,

(b) in the case of a limited liability partnership, to any member or to any person having control or management of the partnership business,

(c) in the case of any other partnership, to any partner or to any person having control or management of the partnership business, and

(d) in the case of an unincorporated association, to any member or to any person having control or management of the affairs of the association.

11 (1) The appropriate national authority may by regulations make provision supplementary or incidental to the preceding provisions of this Schedule.

(2) Such provision may, in particular, include—

(a) provision prescribing—

(i) the form of penalty charge notices or any other notice mentioned in this Schedule,

(ii) circumstances in which penalty charge notices may not be given,

(iii) the method or methods by which penalty charges may be paid,

(b) provision about the service of notices.

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SCHEDULE 11

Section 299

POSSESSION ORDERS RELATING TO CERTAIN TENANCIES

PART 1

AMENDMENTS TO THE HOUSING ACTS OF 1985, 1988 AND 1996

Housing Act 1985 (c. 68)

1 The Housing Act 1985 is amended as follows.

Commencement Information
I438 Sch. 11 para. 1 in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

2 (1) Section 82 (security of tenure: date on which secure tenancy comes to an end as a result of a possession order etc.) is amended as follows.

(2) In subsection (1) for "by obtaining an order" substitute " as ".

(3) For subsections (1A) and (2) substitute—

"(1A) The tenancy may be brought to an end by the landlord—

(a) obtaining—

(i) an order of the court for the possession of the dwelling-house, and

(ii) the execution of the order,

(b) obtaining an order under subsection (3), or

(c) obtaining a demotion order under section 82A.

(2) In the case mentioned in subsection (1A)(a), the tenancy ends when the order is executed."

Commencement Information
I439 Sch. 11 para. 2 in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

3 (1) Section 85 (extended discretion of court in certain proceedings for possession) is amended as follows.

(2) In subsection (3)(a) omit the words from "or payments" to "profits),".

(3) For subsection (4) substitute—

"(4) The court may discharge or rescind the order for possession if it thinks it appropriate to do so having had regard to—

(a) any conditions imposed under subsection (3), and

(b) the conduct of the tenant in connection with those conditions."

(4) Omit subsections (5) and (5A).

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I440 Sch. 11 para. 3(1)(2)(4) in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

4 In Schedule 3 (grounds for withholding consent to assignment by way of exchange) for Ground 1 substitute—

"Ground 1

The tenant or the proposed assignee is subject to an order of the court for the possession of the dwelling-house of which he is the secure tenant."

Commencement Information
I441 Sch. 11 para. 4 in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

Housing Act 1988 (c. 50)

5 The Housing Act 1988 is amended as follows.

Commencement Information
I442 Sch. 11 para. 5 in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

6 (1) Section 5 (security of tenure) is amended as follows.

(2) For subsection (1) substitute—

"(1) An assured tenancy cannot be brought to an end by the landlord except by—
(a) obtaining—
(i) an order of the court for possession of the dwelling-house under section 7 or 21, and
(ii) the execution of the order,
(b) obtaining an order of the court under section 6A (demotion order), or
(c) in the case of a fixed term tenancy which contains power for the landlord to determine the tenancy in certain circumstances, by the exercise of that power,

and, accordingly, the service by the landlord of a notice to quit is of no effect in relation to a periodic assured tenancy.

(1A) Where an order of the court for possession of the dwelling-house is obtained, the tenancy ends when the order is executed."

(3) In subsection (2)(a) after "court" insert " of the kind mentioned in subsection (1)(a) or (b) or any other order of the court ".

Commencement Information
I443 Sch. 11 para. 6 in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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7 In section 7(7) (possession orders in cases of fixed term tenancies which have come to an end) for "on the day on which the order takes effect" substitute " in accordance with section 5(1A) ".

Commencement Information
I444 Sch. 11 para. 7 in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

8 (1) Section 9 (extended discretion of court in possession claims) is amended as follows.

(2) In subsection (3) omit the words from "or payments" to "profits)".

(3) For subsection (4) substitute—

"(4) The court may discharge or rescind any such order as is referred to in subsection (2) if it thinks it appropriate to do so having had regard to—
(a) any conditions imposed under subsection (3), and
(b) the conduct of the tenant in connection with those conditions."

(4) Omit subsections (5) and (5A).

Commencement Information
I445 Sch. 11 para. 8(1)(2)(4) in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

9 (1) Section 21 (recovery of possession on expiry or termination of assured shorthold tenancies) is amended as follows.

(2) In subsection (3) for "on the day on which the order takes effect" substitute " in accordance with section 5(1A) ".

(3) After subsection (4) insert—

"(4A) Where a court makes an order for possession of a dwelling-house by virtue of subsection (4) above, the assured shorthold tenancy shall end in accordance with section 5(1A)."

Commencement Information
I446 Sch. 11 para. 9 in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

Housing Act 1996 (c. 52)

10 The Housing Act 1996 is amended as follows.

Commencement Information
I447 Sch. 11 para. 10 in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

11 (1) Section 127 (introductory tenancies: proceedings for possession) is amended as follows.

(2) In subsection (1) for the words from "an order" to the end substitute "—

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(a) an order of the court for the possession of the dwelling-house, and
(b) the execution of the order."

(3) After subsection (1) insert—

"(1A) In such a case, the tenancy ends when the order is executed."

(4) In subsection (2) for "such an order" substitute " an order of the kind mentioned in subsection (1)(a) ".

(5) Omit subsection (3).

Commencement Information
I448 Sch. 11 para. 11 in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

12 (1) Section 130 (introductory tenancies: effect of beginning proceedings for possession) is amended as follows.

(2) In subsection (2)(a) for the words from "in pursuance of", where they first appear, to "of the court)" substitute " in accordance with section 127(1A) ".

(3) In subsection (3)(b) for "127(2) and (3)" substitute " 127(1A) and (2) ".

Commencement Information
I449 Sch. 11 para. 12 in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

13 (1) Section 143D (demoted tenancies: proceedings for possession) is amended as follows.

(2) In subsection (1) for the words from "an order" to the end substitute "—
(a) an order of the court for the possession of the dwelling-house, and
(b) the execution of the order."

(3) After subsection (1) insert—

"(1A) In such a case, the tenancy ends when the order is executed."

(4) Omit subsection (3).

Commencement Information
I450 Sch. 11 para. 13 in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

Transitional provisions

14 (1) Subject as follows, this Part of this Schedule does not apply to any possession order made before the commencement date.

(2) This Part of this Schedule does apply to a possession order made before the commencement date if the order applies to—
(a) a new tenancy by virtue of paragraph 20, or
(b) a tenancy which has not ended pursuant to the order before that date.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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(3) Paragraphs 3(3) and 8(3) apply to any possession order regardless of when it was made.

(4) In determining for the purposes of sub-paragraph (2) whether a tenancy has ended, any ending which was temporary because the tenancy was restored in consequence of a court order is to be ignored.

(5) In this paragraph "the commencement date" means the day on which section 299 comes into force for purposes other than the purposes of the Secretary of State or the Welsh Ministers making orders under Part 2 of this Schedule.

Commencement Information

I451 Sch. 11 para. 14(1)(2)(4)(5) in force at 20.5.2009 by S.I. 2009/1261, **arts. 2**, 3

PART 2

REPLACEMENT OF CERTAIN TERMINATED TENANCIES

Modifications etc. (not altering text)

C3 Sch. 11 Pt. 2 applied (with modifications) (E.) (20.5.2009) by Housing (Replacement of Terminated Tenancies) (Successor Landlords) (England) Order 2009 (S.I. 2009/1262), arts. 1(1), **arts. 2-7**

Circumstances in which replacement tenancies arise

15 In this Part of this Schedule "an original tenancy" means any secure tenancy, assured tenancy, introductory tenancy or demoted tenancy—

(a) in respect of which a possession order was made before the commencement date, and

(b) which ended before that date pursuant to the order but not on the execution of the order.

Commencement Information

I452 Sch. 11 para. 15 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(4)** (with arts. 6-13)

I453 Sch. 11 para. 15 in force at 20.5.2009 in so far as not already in force by S.I. 2009/1261, **arts. 2**, 3

16 (1) A new tenancy of the dwelling-house which was let under the original tenancy is treated as arising on the commencement date between the ex-landlord and the ex-tenant if—

(a) on that date—

(i) the home condition is met, and

(ii) the ex-landlord is entitled to let the dwelling-house, and

(b) the ex-landlord and the ex-tenant have not entered into another tenancy after the date on which the original tenancy ended but before the commencement date.

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The home condition is that the dwelling-house which was let under the original tenancy—
  (a) is, on the commencement date, the only or principal home of the ex-tenant, and
  (b) has been the only or principal home of the ex-tenant throughout the termination period.

(3) In this Part of this Schedule "the termination period" means the period—
  (a) beginning with the end of the original tenancy, and
  (b) ending with the commencement date.

(4) For the purposes of sub-paragraph (2)(a) the dwelling-house is the only or principal home of the ex-tenant on the commencement date even though the ex-tenant is then absent from the dwelling-house as a result of having been evicted in pursuance of a warrant if the warrant is subsequently set aside but the possession order under which it was granted remains in force.

(5) In that case, the new tenancy is treated as arising on the first day (if any) on which the ex-tenant resumes occupation of the dwelling-house as that person's only or principal home.

(6) For the purposes of sub-paragraph (2)(b) any period of time within the termination period is to be ignored if—
  (a) it is a period in which the ex-tenant was absent from the dwelling-house as a result of having been evicted in pursuance of a warrant which was then set aside although the possession order under which it was granted remained in force, and
  (b) the ex-tenant subsequently resumes occupation of the dwelling-house as the ex-tenant's only or principal home.

(7) The appropriate national authority may by order provide for particular cases or descriptions of case, or particular circumstances, where the home condition is met where it would not otherwise be met.

Commencement Information

I454 Sch. 11 para. 16 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(4)** (with arts. 6-13)

I455 Sch. 11 para. 16 in force at 20.5.2009 in so far as not already in force by S.I. 2009/1261, **arts. 2**, 3

Nature of replacement tenancies

17 The new tenancy is to be—
  (a) a secure tenancy if—
    (i) the original tenancy was a secure tenancy, or
    (ii) the original tenancy was an introductory tenancy but no election by the ex-landlord under section 124 of the Housing Act 1996 (c. 52) is in force on the day on which the new tenancy arises,
  (b) an assured shorthold tenancy if the original tenancy was an assured shorthold tenancy,
  (c) an assured tenancy which is not an assured shorthold tenancy if the original tenancy was a tenancy of that kind,

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(d) an introductory tenancy if the original tenancy was an introductory tenancy and an election by the ex-landlord under section 124 of the Housing Act 1996 is in force on the day on which the new tenancy arises,

(e) a demoted tenancy to which section 20B of the Housing Act 1988 (c. 50) applies if the original tenancy was a demoted tenancy of that kind, and

(f) a demoted tenancy to which section 143A of the Housing Act 1996 applies if the original tenancy was a demoted tenancy of that kind.

Commencement Information

I456 Sch. 11 para. 17 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(4)** (with arts. 6-13)

I457 Sch. 11 para. 17 in force at 20.5.2009 in so far as not already in force by S.I. 2009/1261, **arts. 2**, 3

18 (1) The new tenancy is, subject as follows, to have effect on the same terms and conditions as those applicable to the original tenancy immediately before it ended.

(2) The terms and conditions of the new tenancy are to be treated as modified so as to reflect, so far as applicable, any changes made during the termination period to the level of payments for the ex-tenant's occupation of the dwelling-house or to the other terms and conditions of the occupation.

(3) The terms and conditions of the new tenancy are to be treated as modified so that any outstanding liabilities owed by the ex-tenant to the ex-landlord in respect of payments for the ex-tenant's occupation of the dwelling-house during the termination period are liabilities in respect of rent under the new tenancy.

(4) The appropriate national authority may by order provide for other modifications of the terms and conditions of the new tenancy.

(5) Nothing in sub-paragraphs (2) to (4) is to be read as permitting modifications of the new tenancy which would not have been possible if the original tenancy had remained a tenancy throughout the termination period.

(6) The terms and conditions of a new secure tenancy which arises by virtue of paragraph 17(a)(ii) are to be treated as modified so far as necessary to reflect the fact that the new tenancy is a secure tenancy and not an introductory tenancy.

Commencement Information

I458 Sch. 11 para. 18 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(4)** (with arts. 6-13)

I459 Sch. 11 para. 18 in force at 20.5.2009 in so far as not already in force by S.I. 2009/1261, **arts. 2**, 3

19 (1) Any provision which is made by or under an enactment and relates to a secure tenancy, assured tenancy, introductory tenancy or demoted tenancy applies, subject as follows, to a new tenancy of a corresponding kind.

(2) Any such provision which relates to an introductory tenancy applies to a new tenancy which is an introductory tenancy as if the trial period mentioned in section 125(2) of the Housing Act 1996 (c. 52) were the period of one year beginning with the day on which the new tenancy arises.

(3) Any such provision which relates to a demoted tenancy applies to a new tenancy which is a demoted tenancy as if the demotion period mentioned in section 20B(2)

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of the Housing Act 1988 (c. 50) or section 143B(1) of the Housing Act 1996 were the period of one year beginning with the day on which the new tenancy arises.

(4) The appropriate national authority may by order modify any provision made by or under an enactment in its application to a new tenancy.

Commencement Information

I460 Sch. 11 para. 19 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(4)** (with arts. 6-13)

I461 Sch. 11 para. 19 in force at 20.5.2009 in so far as not already in force by S.I. 2009/1261, **arts. 2**, 3

Status of possession order and other court orders

20 (1) The possession order in pursuance of which the original tenancy ended is to be treated, so far as practicable, as if it applies to the new tenancy.

(2) Any court orders made before the commencement date which—

(a) are in force on that date,

(b) relate to the occupation of the dwelling-house, and

(c) were made in contemplation of, in consequence of or otherwise in connection with the possession order,

are to be treated, so far as practicable, as if they apply to the new tenancy.

Commencement Information

I462 Sch. 11 para. 20 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(4)** (with arts. 6-13)

I463 Sch. 11 para. 20 in force at 20.5.2009 in so far as not already in force by S.I. 2009/1261, **arts. 2**, 3

Continuity of tenancies

21 (1) The new tenancy and the original tenancy are to be treated for the relevant purposes as—

(a) the same tenancy, and

(b) a tenancy which continued uninterrupted throughout the termination period.

(2) The relevant purposes are—

(a) determining whether the ex-tenant is a successor in relation to the new tenancy,

(b) calculating on or after the commencement date the period qualifying, or the aggregate of such periods, under Schedule 4 to the Housing Act 1985 (c. 68) (qualifying period for right to buy and discount),

(c) determining on or after the commencement date whether the condition set out in paragraph (b) of Ground 8 of Schedule 2 to that Act is met, and

(d) any other purposes specified by the appropriate national authority by order.

(3) In proceedings on a relevant claim the court concerned may order that the new tenancy and the original tenancy are to be treated for the purposes of the claim as—

(a) the same tenancy, and

(b) a tenancy which continued uninterrupted throughout the termination period.

(4) The following are relevant claims—

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(a) a claim by the ex-tenant or the ex-landlord against the other for breach of a term or condition of the original tenancy—
  (i) in respect of which proceedings are brought on or after the commencement date, or
  (ii) in respect of which proceedings were brought, but were not finally determined, before that date,
(b) a claim by the ex-tenant against the ex-landlord for breach of statutory duty in respect of which proceedings are or were brought as mentioned in paragraph (a)(i) or (ii), and
(c) any other claim of a description specified by the appropriate national authority by order.

(5) For the purposes of sub-paragraph (4)(a) proceedings must be treated as finally determined if—
(a) they are withdrawn,
(b) any appeal is abandoned, or
(c) the time for appealing has expired without an appeal being brought.

Commencement Information
I464 Sch. 11 para. 21 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(4)** (with arts. 6-13)
I465 Sch. 11 para. 21 in force at 20.5.2009 in so far as not already in force by S.I. 2009/1261, **arts. 2**, 3

Compliance with consultation requirements

22 (1) The fact that—
(a) the views of the ex-tenant during the termination period were not sought or taken into account when they should have been sought or taken into account, or
(b) the views of the ex-tenant during that period were sought or taken into account when they should not have been sought or taken into account,

is not to be taken to mean that the consultation requirements were not complied with.

(2) The consultation requirements are—
(a) the requirements under—
  (i) section 105(1) of the Housing Act 1985 (c. 68),
  (ii) paragraphs 3 and 4 of Schedule 3A to that Act,
  (iii) regulations made under section 27AB of that Act which relate to arranging for ballots or polls with respect to a proposal to enter into a management agreement, and
  (iv) section 137(2) of the Housing Act 1996 (c. 52), and
(b) any other requirements specified by the appropriate national authority by order.

Commencement Information
I466 Sch. 11 para. 22 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(4)** (with arts. 6-13)
I467 Sch. 11 para. 22 in force at 20.5.2009 in so far as not already in force by S.I. 2009/1261, **arts. 2**, 3

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Joint tenancies

23 (1) In the application of this Part of this Schedule in relation to an original tenancy which was a joint tenancy, a reference to the dwelling-house being the only or principal home of the ex-tenant is to be treated as a reference to the dwelling-house being the only or principal home of at least one of the ex-tenants of the joint tenancy.

(2) The appropriate national authority may by order provide for this Part of this Schedule to apply in relation to an original tenancy which was a joint tenancy subject to such additional modifications as may be specified in the order.

Commencement Information

I468 Sch. 11 para. 23 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(4)** (with arts. 6-13)

I469 Sch. 11 para. 23 in force at 20.5.2009 in so far as not already in force by S.I. 2009/1261, **arts. 2**, 3

Successor landlords

24 (1) The appropriate national authority may by order provide for this Part of this Schedule to apply, subject to such modifications as may be specified in the order, to successor landlord cases.

(2) For the purposes of sub-paragraph (1) a successor landlord case is a case, in relation to an original tenancy, where the interest of the ex-landlord in the dwelling-house—

(a) has been transferred to another person after the end of the original tenancy and before the commencement date, and

(b) on the commencement date, belongs to the person to whom it has been transferred or a subsequent transferee.

Commencement Information

I470 Sch. 11 para. 24 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(4)** (with arts. 6-13)

I471 Sch. 11 para. 24 in force at 20.5.2009 in so far as not already in force by S.I. 2009/1261, **arts. 2**, 3

Supplementary

25 In determining for the purposes of this Part of this Schedule whether a tenancy has ended, any ending which was temporary because the tenancy was restored in consequence of a court order is to be ignored.

Commencement Information

I472 Sch. 11 para. 25 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(4)** (with arts. 6-13)

I473 Sch. 11 para. 25 in force at 20.5.2009 in so far as not already in force by S.I. 2009/1261, **arts. 2**, 3

26 (1) In this Part of this Schedule—

"appropriate national authority" means—

(a) in relation to a dwelling-house in England, the Secretary of State, and

(b) in relation to a dwelling-house in Wales, the Welsh Ministers,

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"assured shorthold tenancy" and "assured tenancy" have the same meanings as in Part 1 of the Housing Act 1988 (c. 50) but do not include a demoted tenancy to which section 20B of that Act applies,

"the commencement date" means the day on which section 299 comes into force for purposes other than the purposes of the Secretary of State or the Welsh Ministers making orders under this Part of this Schedule,

"demoted tenancy" means a tenancy to which section 20B of the Act of 1988 or section 143A of the Housing Act 1996 (c. 52) applies,

"dwelling-house"—

(a) in relation to an assured tenancy, or a tenancy to which section 20B of the Act of 1988 applies, has the same meaning as in Part 1 of that Act,

(b) in relation to a tenancy to which section 143A of the Act of 1996 applies, has the same meaning as in Chapter 1A of Part 5 of that Act,

(c) in relation to an introductory tenancy, has the meaning given by section 139 of the Act of 1996, and

(d) in relation to a secure tenancy, has the meaning given by section 112 of the Housing Act 1985 (c. 68),

"ex-landlord" means the person who was the landlord under an original tenancy,

"ex-tenant" means the person who was the tenant under an original tenancy,

"introductory tenancy" has the same meaning as in Chapter 1 of Part 5 of the Act of 1996,

"modification" includes omission,

"new tenancy" means a tenancy which is treated as arising by virtue of paragraph 16,

"original tenancy" has the meaning given by paragraph 15,

"possession order", in relation to a tenancy, means a court order for the possession of the dwelling-house,

"secure tenancy" has the same meaning as in Part 4 of the Act of 1985,

"successor"—

(a) in relation to a new tenancy which is an assured tenancy or which is a demoted tenancy to which section 20B of the Act of 1988 applies, has the same meaning as in section 17 of that Act,

(b) in relation to a new tenancy which is a demoted tenancy to which section 143A of the Act of 1996 applies, has the meaning given by section 143J of that Act,

(c) in relation to a new tenancy which is an introductory tenancy, has the same meaning as in section 132 of the Act of 1996, and

(d) in relation to a new tenancy which is a secure tenancy, has the same meaning as in section 88 of the Act of 1985.

"termination period" has the meaning given by paragraph 16(3).

(2) For the purposes of the definition of "appropriate national authority" in sub-paragraph (1) a dwelling-house which is partly in England and partly in Wales is to be treated—

(a) as being in England if it is treated as situated in the area of a billing authority in England by virtue of regulations under section 1(3) of the Local

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Government Finance Act 1992 (c. 14) (council tax in respect of dwellings), and

(b) as being in Wales if it is treated as situated in the area of a billing authority in Wales by virtue of regulations under that section.

Commencement Information

I474 Sch. 11 para. 26 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(4)** (with arts. 6-13)

I475 Sch. 11 para. 26 in force at 20.5.2009 in so far as not already in force by S.I. 2009/1261, **arts. 2**, 3

SCHEDULE 12

Section 303

SERVICE CHARGES: PROVISION OF INFORMATION AND DESIGNATED ACCOUNTS

Landlord and Tenant Act 1985 (c. 70)

1 The Landlord and Tenant Act 1985 is amended as follows.

Commencement Information

I476 Sch. 12 para. 1 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(6)** (with arts. 6-13)

2 For section 21 (as substituted by section 152 of the Commonhold and Leasehold Reform Act 2002 (c. 15)) (regular statements of account) substitute—

"**21 Service charge information**

(1) The appropriate national authority may make regulations about the provision, by landlords of dwellings to each tenant by whom service charges are payable, of information about service charges.

(2) The regulations must, subject to any exceptions provided for in the regulations, require the landlord to provide information about—

(a) the service charges of the tenant,

(b) any associated service charges, and

(c) relevant costs relating to service charges falling within paragraph (a) or (b).

(3) The regulations must, subject to any exceptions provided for in the regulations, require the landlord to provide the tenant with a report by a qualified person on information which the landlord is required to provide by virtue of this section.

(4) The regulations may make provision about—

(a) information to be provided by virtue of subsection (2),

(b) other information to be provided (whether in pursuance of a requirement or otherwise),

(c) reports of the kind mentioned in subsection (3),

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(d) the period or periods in relation to which information or reports are to be provided,

(e) the times at or by which information or reports are to be provided,

(f) the form and manner in which information or reports are to be provided (including in particular whether information is to be contained in a statement of account),

(g) the descriptions of persons who are to be qualified persons for the purposes of subsection (3).

(5) Subsections (2) to (4) do not limit the scope of the power conferred by subsection (1).

(6) Regulations under this section may—

(a) make different provision for different cases or descriptions of case or for different purposes,

(b) contain such supplementary, incidental, consequential, transitional, transitory or saving provision as the appropriate national authority considers appropriate.

(7) Regulations under this section are to be made by statutory instrument which, subject to subsections (8) and (9)—

(a) in the case of regulations made by the Secretary of State, is to be subject to annulment in pursuance of a resolution of either House of Parliament, and

(b) in the case of regulations made by the Welsh Ministers, is to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(8) The Secretary of State may not make a statutory instrument containing the first regulations made by the Secretary of State under this section unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(9) The Welsh Ministers may not make a statutory instrument containing the first regulations made by the Welsh Ministers under this section unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(10) In this section—

"the appropriate national authority"—

(a) in relation to England, means the Secretary of State, and

(b) in relation to Wales, means the Welsh Ministers,

"associated service charges", in relation to a tenant by whom a contribution to relevant costs is payable as a service charge, means service charges of other tenants so far as relating to the same costs."

Commencement Information

I477 Sch. 12 para. 2 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(6)** (with arts. 6-13)

3 (1) Section 21A (withholding of service charges) is amended as follows.

(2) For subsection (1) substitute—

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"(1) A tenant may withhold payment of a service charge if—

(a) the landlord has not provided him with information or a report—

(i) at the time at which, or

(ii) (as the case may be) by the time by which,

he is required to provide it by virtue of section 21, or

(b) the form or content of information or a report which the landlord has provided him with by virtue of that section (at any time) does not conform exactly or substantially with the requirements prescribed by regulations under that section."

(3) In subsection (2)—

(a) in paragraph (a) for "accounting period to which the document" substitute " period to which the information or report ", and

(b) for paragraph (b) substitute—

"(b) amounts standing to the tenant's credit in relation to the service charges at the beginning of that period."

(4) In subsection (3)—

(a) in paragraph (a) for "document concerned has been supplied" substitute " information or report concerned has been provided ", and

(b) for paragraph (b) substitute—

"(b) in a case within paragraph (b) of that subsection, after information or a report conforming exactly or substantially with requirements prescribed by regulations under section 21 has been provided to the tenant by the landlord by way of replacement of that previously provided."

Commencement Information

I478 Sch. 12 para. 3 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(6)** (with arts. 6-13)

4 (1) Section 22 (as substituted by section 154 of the Commonhold and Leasehold Reform Act 2002 (c. 15)) (inspection etc. of documents) is amended as follows.

(2) In subsection (1)(a) for the words from "the matters" to "under" substitute " information required to be provided to him by virtue of ".

(3) In subsection (3) for "supplied with the statement of account under" substitute " provided with the information concerned by virtue of ".

(4) In subsection (4)—

(a) for "statement of account", wherever it appears, substitute " information ",

(b) for "supplied", wherever it appears, substitute " provided ", and

(c) in paragraph (b) for "21(4)" substitute " 21 ".

Commencement Information

I479 Sch. 12 para. 4 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(6)** (with arts. 6-13)

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5 In section 23(1) (as substituted by paragraph 1 of Schedule 10 to the Commonhold and Leasehold Reform Act 2002 (c. 15) (information held by superior landlord))—

(a) for "a statement of account which the landlord is required to supply under" substitute " information which the landlord is required to provide by virtue of ", and

(b) after "of the relevant information" insert " which relates to those matters ".

Commencement Information

I480 Sch. 12 para. 5 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(6)** (with arts. 6-13)

6 In section 23A(4) (effect of change of landlord)—

(a) in paragraph (a) after "23" insert " and any regulations under section 21 ", and

(b) after paragraph (b) insert "and

(c) any regulations under section 21 apply subject to any modifications contained in the regulations."

Commencement Information

I481 Sch. 12 para. 6 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(6)** (with arts. 6-13)

7 In section 26(1) (exception: tenants of certain public authorities) for "statements of account" substitute " service charge information, reports on such information ".

Commencement Information

I482 Sch. 12 para. 7 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(6)** (with arts. 6-13)

8 In section 27 (exception: rent registered and not entered as variable) for "statements of account" substitute " service charge information, reports on such information ".

Commencement Information

I483 Sch. 12 para. 8 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(6)** (with arts. 6-13)

9 Omit section 28 (meaning of "qualified accountant").

Commencement Information

I484 Sch. 12 para. 9 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(6)** (with arts. 6-13)

10 In section 39 (index of defined expressions) omit the entry in the Table for "qualified accountant".

Commencement Information

I485 Sch. 12 para. 10 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(6)** (with arts. 6-13)

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Landlord and Tenant Act 1987 (c. 31)

11 The Landlord and Tenant Act 1987 is amended as follows.

Commencement Information

I486 Sch. 12 para. 11 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(7)** (with arts. 6-13)

12 (1) Section 42A (service charge contributions to be held in designated account) is amended as follows.

(2) In subsection (2)—

(a) for paragraph (b) substitute—

"(b) any other sums held in the account are sums standing to the credit of one or more other trust funds,", and

(b) for "Secretary of State" substitute " appropriate national authority ".

(3) After subsection (2) insert—

"(2A) The appropriate national authority may by regulations ensure that a payee who holds more than one trust fund in the same designated account cannot move any of those funds to another designated account unless conditions specified in the regulations are met."

(4) In subsection (3)(a)—

(a) after "subsection (1) is" insert " , or regulations under subsection (2A) are, ", and

(b) for "them" substitute " such documents ".

(5) In subsections (5), (6), (7) and (8) for "this section" substitute " subsection (3) ".

(6) After subsection (9) insert—

"(9A) Regulations under subsection (2A) may include provision about —

(a) the circumstances in which a contributing tenant who has reasonable grounds for believing that the payee has not complied with a duty imposed on him by the regulations may withhold payment of a service charge,

(b) the period for which payment may be so withheld,

(c) the amount of service charge that may be so withheld;

and the regulations may provide that any provisions of the contributing tenant's tenancy relating to non-payment or late payment of service charge do not have effect in relation to the period for which the payment is so withheld."

(7) In subsection (10)—

(a) after "this section" insert " or in regulations under subsection (2A) ", and

(b) for "Secretary of State" substitute " appropriate national authority ".

(8) After subsection (10) insert—

"(10A) Regulations under this section may—

(a) make different provision for different cases, including different provision for different areas,

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(b) contain such supplementary, incidental, consequential, transitional, transitory or saving provision as the appropriate national authority considers appropriate.

(10B) Regulations under this section are to be made by statutory instrument which—

(a) in the case of regulations made by the Secretary of State, is to be subject to annulment in pursuance of a resolution of either House of Parliament, and

(b) in the case of regulations made by the Welsh Ministers, is to be subject to annulment in pursuance of a resolution of the National Assembly for Wales."

(9) In subsection (11)—

(a) after "section—" insert—

""the appropriate national authority"—

(a) in relation to England, means the Secretary of State, and

(b) in relation to Wales, means the Welsh Ministers,", and

(b) in the definition of "relevant financial institution" for "Secretary of State" substitute " appropriate national authority ".

Commencement Information

I487 Sch. 12 para. 12 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(7)** (with arts. 6-13)

13 (1) Section 53 (regulations and orders) is amended as follows.

(2) In subsection (2)(b) omit "or 42A".

(3) After subsection (2) insert—

"(3) This section does not apply to any power to make regulations under section 42A."

Commencement Information

I488 Sch. 12 para. 13 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, **art. 4(7)** (with arts. 6-13)

PROSPECTIVE

Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

14 The Leasehold Reform, Housing and Urban Development Act 1993 is amended as follows.

15 (1) Section 78 (management audits) is amended as follows.

(2) In subsection (4) for paragraphs (a) and (b), and the "and" following paragraph (b), substitute—

"(a) he is—

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Changes to legislation: *Housing and Regeneration Act 2008 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(i) a member of a body which is a recognised supervisory body for the purposes of Part 42 of the Companies Act 2006;

(ii) a qualified surveyor; or

(iii) where the landlord is a relevant landlord, a member of the Chartered Institute of Public Finance and Accountancy;

(b) he is not any of the following—

(i) an officer, employee or partner of the landlord or, where the landlord is a company, of an associated company;

(ii) a person who is a partner or employee of any such officer or employee;

(iii) an agent of the landlord who is a managing agent for any premises to which the audit in question relates; or

(iv) an employee or partner of any such agent; and".

(3) After subsection (5) insert—

"(5A) For the purposes of subsection (4)(b)(i) above a company is associated with a landlord company if it is the landlord's holding company, a subsidiary of the landlord or another subsidiary of the landlord's holding company.

(5B) Subsection (4)(b)(i) does not apply where the landlord is a relevant landlord.

(5C) For the purposes of subsection (4)(b)(iii) above a person is a managing agent for any premises if he has been appointed to discharge any of the landlord's obligations relating to the management by the landlord of the premises."

(4) After subsection (6) insert—

"(7) In this section—

"holding company" and "subsidiary" have the meanings given by section 1159 of the Companies Act 2006;

"relevant landlord" means—

(a) a local authority (within the meaning of the Landlord and Tenant Act 1985);

(b) a National Park authority; or

(c) a new town corporation (within the meaning of the Act of 1985)."

16 In section 79(2)(a) (rights exercisable in connection with management audits)—

(a) for the words from "the matters" to "supplied" substitute " information required to be provided ", and

(b) for "under" substitute " by virtue of ".

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SCHEDULE 13

Section 305

DEMOLITION NOTICES

Final demolition notices

1 Schedule 5 to the Housing Act 1985 (c. 68) (exceptions to the right to buy: final demolition notices) is amended as follows.

2 (1) Paragraph 13 (final demolition notices) is amended as follows.

(2) In sub-paragraph (5) (period of validity of final demolition notices)—

(a) omit the "and" following paragraph (a),

(b) in paragraph (b) for "(7)" substitute " (7A) ", and

(c) after paragraph (b) insert ", and

(c) the provisions of paragraph 15A".

(3) In sub-paragraph (9) (certain references to landlord to include superior landlord) after "15" insert " (other than paragraph 15(7A) ".

3 (1) Paragraph 15 (extension or revocation etc. of final demolition notices) is amended as follows.

(2) After sub-paragraph (7) (revocation notices) insert—

"(7A) Sub-paragraphs (4) to (7) do not apply if the landlord is selling or otherwise transferring his interest as landlord to another person or is offering it for sale or for other transfer."

(3) In sub-paragraph (8) (restrictions on service of further notices)—

(a) after "final demolition notice", where it first appears, insert " ("the earlier notice") ",

(b) after "final demolition notice", where it appears for a second time, insert " (and no initial demolition notice) ",

(c) after "in respect of it" insert " , by the landlord who served the earlier notice or any landlord who served a continuation notice in respect of the earlier notice, ",

(d) after "when the" insert " earlier ", and

(e) in paragraph (a) for "it" substitute " the further final demolition notice (or, as the case may be, the initial demolition notice) ".

(4) After sub-paragraph (9) insert—

"(10) In sub-paragraph (8) "initial demolition notice" has the meaning given by paragraph 1 of Schedule 5A (initial demolition notices)."

4 After paragraph 15 insert—

"15A(1) This paragraph applies if—

(a) a final demolition notice is in force in respect of a dwelling-house, and

(b) the landlord transfers his interest as landlord to another person.

(2) The final demolition notice ("the original notice") continues in force but this is subject to—

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(a) paragraphs 13(5) and 15, and
(b) the following provisions of this paragraph.

(3) Sub-paragraph (4) applies if the transferee—
(a) intends to demolish the dwelling-house, but
(b) has not—
(i) served a continuation notice, and
(ii) complied with the conditions in sub-paragraphs (8) and (10),
within the period of 2 months beginning with the date of transfer.

(4) The transferee must proceed under paragraph 15(4) as if the transferee has decided not to demolish the dwelling-house (and paragraph 15(5) to (7) applies on the same basis).

(5) A continuation notice is a notice—
(a) stating that the transferee—
(i) has acquired the interest concerned, and
(ii) intends to demolish the dwelling-house or (as the case may be) the building containing it ("the relevant premises"),
(b) setting out the reasons why the transferee intends to demolish the relevant premises,
(c) stating that one of conditions A to C in paragraph 14 is satisfied in relation to the original notice (specifying the condition concerned),
(d) stating that the original notice is to continue in force, and
(e) explaining the continued effect of the original notice.

(6) A continuation notice may not vary the proposed demolition date in the original notice nor the date when the original notice will cease to be in force.

(7) Sub-paragraph (8) applies if—
(a) the dwelling-house is contained in a building which contains one or more other dwelling-houses, and
(b) the transferee intends to demolish the whole of the building.

(8) The transferee must serve a continuation notice on the occupier of each of the dwelling-houses contained in the building (whether addressed to him by name or just as "the occupier").

(9) An accidental omission to serve a continuation notice on one or more occupiers does not prevent the condition in sub-paragraph (8) from being satisfied.

(10) Paragraph 13(7) and (8) apply in relation to the transferee's intention to demolish so as to impose a condition on the transferee for a notice to appear within the period of 2 months beginning with the date of transfer.

(11) Sub-paragraphs (7) to (10) above apply instead of paragraph 13(6) to (8) in relation to a final demolition notice so far as continued in force under this paragraph."

5 In paragraph 16(1) (notices under paragraphs 13 and 15) for "or 15" substitute " , 15 or 15A ".

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Initial demolition notices

6 Schedule 5A to the Housing Act 1985 (c. 68) (initial demolition notices) is amended as follows.

7 In paragraph 1(4)(b) (initial demolition notices: maximum specified period to carry out demolition) for "five" substitute " seven ".

8 In paragraph 2(1) (period of validity of initial demolition notices) for "paragraph 3" substitute " paragraphs 3 and 3A ".

9 In paragraph 3(1) (revocation of initial demolition notices: application of paragraph 15(4) to (7) of Schedule 5 to that Act) for "(7)" substitute " (7A) ".

10 After paragraph 3 insert—

"Transfer of initial demolition notices

3A (1) This paragraph applies if—
(a) an initial demolition notice is in force in respect of a dwelling-house, and
(b) the landlord transfers his interest as landlord to another person.

(2) The initial demolition notice ("the original notice") continues in force but this is subject to—
(a) paragraphs 2 and 3, and
(b) the following provisions of this paragraph.

(3) Sub-paragraph (4) applies if the transferee—
(a) intends to demolish the dwelling-house, but
(b) has not—
(i) served a continuation notice, and
(ii) complied with the conditions in sub-paragraphs (8) and (10),
within the period of 2 months beginning with the date of transfer.

(4) The transferee must proceed under paragraph 15(4) of Schedule 5 as applied by paragraph 3(1) above as if the transferee has decided not to demolish the dwelling-house (and paragraph 15(5) to (7) of that Schedule as so applied applies on the same basis).

(5) A continuation notice is a notice—
(a) stating that the transferee—
(i) has acquired the interest concerned, and
(ii) intends to demolish the dwelling-house or (as the case may be) the building containing it ("the relevant premises"),
(b) setting out the reasons why the transferee intends to demolish the relevant premises,
(c) stating that the original notice is to continue in force, and
(d) explaining the continued effect of the original notice.

(6) A continuation notice may not vary the period specified in the original notice in accordance with paragraph 1(1)(c).

(7) Sub-paragraph (8) applies if—

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(a) the dwelling-house is contained in a building which contains one or more other dwelling-houses, and

(b) the transferee intends to demolish the whole of the building.

(8) The transferee must serve a continuation notice on the occupier of each of the dwelling-houses contained in the building (whether addressed to him by name or just as "the occupier").

(9) An accidental omission to serve a continuation notice on one or more occupiers does not prevent the condition in sub-paragraph (8) from being satisfied.

(10) Paragraph 13(7) of Schedule 5 applies in relation to the transferee's intention to demolish so as to impose a condition on the transferee for a notice to appear within the period of 2 months beginning with the date of transfer; and paragraph 2(3) above applies for this purpose.

(11) Sub-paragraphs (7) to (10) above apply instead of paragraph 2(2) and (3) in relation to an initial demolition notice so far as continued in force under this paragraph."

11 (1) Paragraph 4 (restrictions on service of further notices) is amended as follows.

(2) In sub-paragraph (2) (further initial demolition notices)—

(a) after "dwelling-house" insert " , by the landlord who served the relevant notice or any landlord who served a continuation notice in respect of the relevant notice, ", and

(b) in paragraph (a) for "it" substitute " the further notice ".

(3) In sub-paragraph (3) (final demolition notices)—

(a) after "dwelling-house" insert " , by the landlord who served the relevant notice or any landlord who served a continuation notice in respect of the relevant notice, ", and

(b) in paragraph (a) for "it" substitute " the final demolition notice ".

12 In paragraph 5 (notices under Schedule 5A) for "or 15" substitute " , 15 or 15A ".

13 In paragraph 6(1) (interpretation) after "Schedule" insert " (other than paragraph 3A) ".

Transitional provision

14 This Schedule does not apply to notices served before the coming into force of the Schedule.

SCHEDULE 14

Section 311

DISPOSALS OF DWELLING-HOUSES BY LOCAL AUTHORITIES

Housing Act 1985 (c. 68)

1 (1) The Housing Act 1985 is amended as follows.

(2) In section 34 (consents in relation to disposals of land held for housing purposes)—

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(a) in subsection (1) for "Secretary of State's" substitute " appropriate national body's ",

(b) in subsection (4A)—

(i) for "Secretary of State" substitute " appropriate national body ",

(ii) after "disposal;" at the end of paragraph (c), insert—

"(ca) in the case of a proposed large scale disposal, the appropriate national body's estimate of the exchequer costs of the large scale disposal;", and

(iii) in paragraph (d) for "he" substitute " the appropriate national body ", and

(c) after subsection (4A) insert—

"(4AA) The estimate mentioned in subsection (4A)(ca) is to be based on such assumptions (including as to the period during which housing subsidies may be payable) as the appropriate national body may determine, regardless of whether those assumptions are, or are likely to be, borne out by events.

(4AB) In this section—

"appropriate national body"—

(a) in relation to England, means the Secretary of State; and

(b) in relation to Wales, means the Welsh Ministers;

"dwelling-house" has the same meaning as in Part 5 of this Act except that it does not include a hostel or any part of a hostel;

"the exchequer costs", in relation to a large scale disposal, means any increase which is or may be attributable to the disposal in the aggregate of any housing subsidies;

"housing subsidies" means any subsidies payable under—

(a) section 140A of the Social Security Administration Act 1992 (subsidy); or

(b) section 79 of the Local Government and Housing Act 1989 (Housing Revenue Account subsidy);

"large scale disposal" means a disposal of one or more dwelling-houses by a local authority to a person where—

(a) the number of dwelling-houses included in the disposal; and

(b) the number of dwelling-houses which, in the relevant period, have previously been disposed of by the authority to that person, or that person and any of the person's associates taken together,

exceeds 499 or, if the appropriate national body by order so provides, such other number as may be specified in the order;

"long lease" means a lease for a term of years certain exceeding 21 years other than a lease which is terminable before the end of that term by notice given by or to the landlord;

"the relevant period", in relation to a large scale disposal means—

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(a) the period of 5 years ending with the date of the disposal; or

(b) if the appropriate national body by order so provides, such other period ending with that date as may be specified in the order;

"subsidiary" has the same meaning as in section 61 of the Housing Act 1996 but as if references in subsection (2) of that section and section 60 of that Act to registered social landlords and landlords were references to housing associations (within the meaning of the Housing Associations Act 1985).

(4AC) For the purposes of this section—

(a) a disposal of any dwelling-house is to be disregarded if at the time of the disposal the local authority's interest in the dwelling-house is or was subject to a long lease;

(b) two persons are associates of each other if—

(i) one of them is a subsidiary of the other;

(ii) they are both subsidiaries of some other person; or

(iii) there exists between them such relationship or other connection as may be specified in a determination made by the appropriate national body; and

(c) a description of an authority may be framed by reference to any circumstances whatever.

(4AD) An order made by the appropriate national body under this section—

(a) is to be made by statutory instrument which—

(i) in the case of an order made by the Secretary of State, is subject to annulment in pursuance of a resolution of either House of Parliament; and

(ii) in the case of an order made by the Welsh Ministers, is subject to annulment in pursuance of a resolution of the National Assembly for Wales;

(b) may make different provision for different cases or descriptions of case, or for different authorities or descriptions of authority; and

(c) may contain such transitional and supplementary provisions as appear to the appropriate national body to be necessary or expedient.

(4AE) A determination under this section—

(a) may make different provision for different cases or descriptions of case, or for different authorities or descriptions of authority; and

(b) may be varied or revoked by a subsequent determination."

(3) In section 43 (consent required for certain disposals not within section 32)—

(a) in subsection (1) for "Secretary of State" substitute " appropriate national body ",

(b) in subsection (4A)—

(i) for "Secretary of State" substitute " appropriate national body ",

(ii) after "disposal;" at the end of paragraph (c), insert—

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"(ca) in the case of a proposed disposal which is part of a proposed large scale disposal, the appropriate national body's estimate of the exchequer costs of the large scale disposal;", and

(iii) in paragraph (d) for "he" substitute " the appropriate national body ", and

(c) after subsection (4A) insert—

"(4AA) The estimate mentioned in subsection (4A)(ca) is to be based on such assumptions (including as to the period during which housing subsidies may be payable) as the appropriate national body may determine, regardless of whether those assumptions are, or are likely to be, borne out by events.

(4AB) Subsections (4AB) to (4AE) of section 34 apply for the purposes of this section as they apply for the purposes of that section.", and

(d) in subsection (5A) after "this section" insert " (other than in subsection (4A)(ca) and in subsections (4AB) to (4AE) of section 34 as applied for the purposes of this section) ".

Commencement Information

I489 Sch. 14 para. 1 in force at 1.12.2008 by S.I. 2008/3068, **art. 4(1)(c)** (with arts. 6-13)

Housing Act 1988 (c. 50)

2 In section 133(3) of the Housing Act 1988 (consent required for certain subsequent disposals)—

(a) in paragraph (a) for "and (3) to (4A)" substitute " , (3), (4) and (4A)(a) to (c) and (d) ",

(b) in paragraph (b) for "and (3) to (4A)" substitute " , (3), (4) and (4A)(a) to (c) and (d) ", and

(c) in paragraph (c) for "(4A)" substitute " (4A)(a) to (c) and (d) ".

Commencement Information

I490 Sch. 14 para. 2 in force at 1.12.2008 by S.I. 2008/3068, **art. 4(1)(c)** (with arts. 6-13)

Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

3 (1) The Leasehold Reform, Housing and Urban Development Act 1993 is amended as follows.

(2) Omit section 135 (programmes for disposals of dwelling-houses by local authorities).

(3) In section 136 (levy on disposals) for subsection (14) substitute—

"(14) In this section—

"the 1989 Act" means the Local Government and Housing Act 1989;

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"dwelling-house" has the same meaning as in Part 5 of the 1985 Act except that it does not include a hostel (as defined in section 622 of that Act) or any part of a hostel;

"local authority" has the meaning given by section 4 of that Act;

"long lease" means a lease for a term of years certain exceeding 21 years other than a lease which is terminable before the end of that term by notice given by or to the landlord;

"subsidiary" has the same meaning as in section 61 of the Housing Act 1996 but as if references in subsection (2) of that section and section 60 of that Act to registered social landlords and landlords were references to housing associations (within the meaning of the Housing Associations Act 1985).

(15) For the purposes of this section—

(a) a disposal of any dwelling-house is to be disregarded if at the time of the disposal the local authority's interest in the dwelling-house is or was subject to a long lease;

(b) two persons are associates of each other if—

(i) one of them is a subsidiary of the other;

(ii) they are both subsidiaries of some other person; or

(iii) there exists between them such relationship or other connection as may be specified in a determination made by the Secretary of State; and

(c) a description of authority may be framed by reference to any circumstances whatever."

(4) Omit section 137(1) to (3) (disposals: transitional provisions in relation to section 135).

(5) The reference to the Secretary of State in subsection (15) of section 136 of the Act of 1993, as inserted by sub-paragraph (3) above, is to be read in the same way as other references to the Secretary of State in that section of that Act.

Commencement Information

I491 Sch. 14 para. 3 in force at 1.12.2008 by S.I. 2008/3068, **art. 4(1)(c)** (with arts. 6-13)

Housing Act 1996 (c. 52)

4 (1) The Housing Act 1996 is amended as follows.

(2) In section 51(2)(b) (schemes for investigation of complaints) for "a qualifying disposal" substitute "—

(i) a large scale disposal, within the meaning of section 34 of the Housing Act 1985, for which consent was required under section 32 or 43 of that Act; or

(ii) a qualifying disposal that was made".

(3) In paragraph 5(1)(b) of Part 2 of Schedule 1 (constitution, change of rules, amalgamation and dissolution: restriction on power of removal in case of registered charity) for "a qualifying disposal" substitute "—

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(i) a large scale disposal, within the meaning of section 34 of the Housing Act 1985, for which consent was required under section 32 or 43 of that Act, or

(ii) a qualifying disposal that was made".

(4) In paragraph 28(1)(b) of Part 4 of Schedule 1 (inquiry into affairs of registered social landlords: availability of powers in relation to registered charities) for "a qualifying disposal" substitute "—

(i) a large scale disposal, within the meaning of section 34 of the Housing Act 1985, for which consent was required under section 32 or 43 of that Act, or

(ii) a qualifying disposal that was made".

Commencement Information

I492 Sch. 14 para. 4 in force at 1.12.2008 by S.I. 2008/3068, **art. 4(1)(c)** (with arts. 6-13)

SCHEDULE 15

Section 314

INELIGIBLE PERSONS FROM ABROAD: STATUTORY DISREGARDS

PART 1

ENGLAND AND WALES

Housing Act 1996 (c. 52)

1 The Housing Act 1996 is amended as follows.

Commencement Information

I493 Sch. 15 para. 1 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 2**

2 (1) Section 167 (allocation in accordance with allocation scheme) is amended as follows.

(2) In subsection (2) after "scheme shall" insert " , subject to subsection (2ZA), ".

(3) After subsection (2) insert—

"(2ZA) People are to be disregarded for the purposes of subsection (2) if they would not have fallen within paragraph (a) or (b) of that subsection without the local housing authority having had regard to a restricted person (within the meaning of Part 7)."

Commencement Information

I494 Sch. 15 para. 2 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 2**

Status: *Point in time view as at 20/05/2009. This version of this Act contains provisions that are not valid for this point in time.*
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3 (1) Section 184 (inquiry into cases of homelessness or threatened homelessness) is amended as follows.

(2) After subsection (3) insert—

"(3A) If the authority decide that a duty is owed to the applicant under section 193(2) or 195(2) but would not have done so without having had regard to a restricted person, the notice under subsection (3) must also—

(a) inform the applicant that their decision was reached on that basis,

(b) include the name of the restricted person,

(c) explain why the person is a restricted person, and

(d) explain the effect of section 193(7AD) or (as the case may be) section 195(4A)."

(3) After subsection (6) insert—

"(7) In this Part "a restricted person" means a person—

(a) who is not eligible for assistance under this Part,

(b) who is subject to immigration control within the meaning of the Asylum and Immigration Act 1996, and

(c) either—

(i) who does not have leave to enter or remain in the United Kingdom, or

(ii) whose leave to enter or remain in the United Kingdom is subject to a condition to maintain and accommodate himself, and any dependants, without recourse to public funds."

Commencement Information

I495 Sch. 15 para. 3 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 2**

4 (1) Section 185 (persons from abroad not eligible for certain housing assistance) is amended as follows.

(2) In subsection (4) for "another person" substitute " a person falling within subsection (5) ".

(3) After subsection (4) insert—

"(5) A person falls within this subsection if the person—

(a) falls within a class prescribed by regulations made under subsection (2); but

(b) is not a national of an EEA State or Switzerland."

Commencement Information

I496 Sch. 15 para. 4 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 2**

5 (1) Section 193 (duty to persons with priority need who are not homeless intentionally) is amended as follows.

(2) In subsection (3A) after "this section" insert " in a case which is not a restricted case ".

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(3) After subsection (3A) insert—

"(3B) In this section "a restricted case" means a case where the local housing authority would not be satisfied as mentioned in subsection (1) without having had regard to a restricted person."

(4) After subsection (7A) insert—

"(7AA) In a restricted case the authority shall also cease to be subject to the duty under this section if the applicant, having been informed of the matters mentioned in subsection (7AB)—

(a) accepts a private accommodation offer, or

(b) refuses such an offer.

(7AB) The matters are—

(a) the possible consequence of refusal of the offer, and

(b) that the applicant has the right to request a review of the suitability of the accommodation.

(7AC) For the purposes of this section an offer is a private accommodation offer if—

(a) it is an offer of an assured shorthold tenancy made by a private landlord to the applicant in relation to any accommodation which is, or may become, available for the applicant's occupation,

(b) it is made, with the approval of the authority, in pursuance of arrangements made by the authority with the landlord with a view to bringing the authority's duty under this section to an end, and

(c) the tenancy being offered is a fixed term tenancy (within the meaning of Part 1 of the Housing Act 1988) for a period of at least 12 months.

(7AD) In a restricted case the authority shall, so far as reasonably practicable, bring their duty under this section to an end as mentioned in subsection (7AA)."

(5) In subsections (7B) and (7C) at the beginning insert " In a case which is not a restricted case, ".

(6) In subsection (7F) after paragraph (a) (but before the "or" following it) insert—

"(ab) approve a private accommodation offer;".

Commencement Information

I497 Sch. 15 para. 5 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 2**

6 (1) Section 195 (duties in the case of threatened homelessness) is amended as follows.

(2) In subsection (3A) after "this section" insert " in a case which is not a restricted threatened homelessness case ".

(3) In subsection (4)—

(a) after "Where" insert " , in a case which is not a restricted threatened homelessness case, ", and

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(b) at the end insert "in a case which is not a restricted case (within the meaning of that section)".

(4) After subsection (4) insert—

"(4A) Where, in a restricted threatened homelessness case, in pursuance of the duty under subsection (2) the authority secure that accommodation other than that occupied by the applicant when he made his application is available for occupation by him, the provisions of section 193(3) to (9) (period for which duty owed) apply, with any necessary modifications, in relation to the duty under this section as they apply in relation to the duty under section 193 in a restricted case (within the meaning of that section).

(4B) In subsections (3A) to (4A) "a restricted threatened homelessness case" means a case where the local housing authority would not be satisfied as mentioned in subsection (1) without having had regard to a restricted person."

Commencement Information
I498 Sch. 15 para. 6 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 2**

7 (1) Section 202 (right to request review of decision) is amended as follows.

(2) In subsection (1) after paragraph (f) insert ", or

(g) any decision of a local housing authority as to the suitability of accommodation offered to him by way of a private accommodation offer (within the meaning of section 193)."

(3) In subsection (1A)—

(a) for "or (7)" substitute " , (7) or (7AA) ", and

(b) after "(f)" insert " or (as the case may be) (g) ".

Commencement Information
I499 Sch. 15 para. 7 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 2**

8 In section 218 (index of defined expressions: Part 7) insert in the Table at the appropriate place—

"restricted person	section 184(7)".

Commencement Information
I500 Sch. 15 para. 8 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 2**

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PART 2

SCOTLAND AND NORTHERN IRELAND

Housing (Scotland) Act 1987 (c. 26)

9 The Housing (Scotland) Act 1987 is amended as follows.

Commencement Information
I501 Sch. 15 para. 9 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

10 (1) Section 20 (persons having priority on housing list and allocation of housing) is amended as follows.

(2) In subsection (1)(b) at the beginning insert " subject to subsection (1A), ".

(3) After subsection (1) insert—

"(1A) Homeless persons and persons threatened with homelessness (within the meaning of Part 2) are to be disregarded for the purposes of subsection (1) if they would not be such persons without the local authority having had regard to a restricted person (also within the meaning of Part 2)."

(4) In subsection (2) for "such housing" substitute " housing falling within subsection (1) ".

Commencement Information
I502 Sch. 15 para. 10 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

11 (1) Section 30 (notification of decision and reasons) is amended as follows.

(2) After subsection (3) insert—

"(3A) If they decide that he is homeless, threatened with homelessness or has a priority need but would not have done so without having had regard to a restricted person, they shall also notify him of—

(a) the fact that their decision was reached on that basis,
(b) the name of the restricted person,
(c) the reason why the person is a restricted person, and
(d) the effect of section 31(2G) or (as the case may be) 32(2A) and (2B)."

(3) After subsection (5) insert—

"(6) In this Part "a restricted person" means a person—

(a) who is not eligible for assistance under this Part,
(b) who is subject to immigration control within the meaning of the Asylum and Immigration Act 1996, and
(c) either—

(i) who does not have leave to enter or remain in the United Kingdom, or

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(ii) whose leave to enter or remain in the United Kingdom is subject to a condition to maintain and accommodate himself, and any dependants, without recourse to public funds."

Commencement Information

I503 Sch. 15 para. 11 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

12 (1) Section 31 (duties to persons found to be homeless) is amended as follows.

(2) After subsection (2) insert—

"(2A) In a restricted case the local authority shall cease to be subject to the duty under subsection (2) if the applicant, having been informed of the matters mentioned in subsection (2B)—

(a) accepts a private accommodation offer, or

(b) refuses such an offer.

(2B) The matters are—

(a) the possible consequence of refusal of the offer, and

(b) that the applicant has the right to request a review of the decisions mentioned in section 35A(2)(e).

(2C) In this section "a restricted case" means a case falling within subsection (2) where the local authority would not be satisfied as mentioned in subsections (1) and (2) without having had regard to a restricted person.

(2D) For the purposes of this Part an offer is a private accommodation offer if—

(a) it is an offer of a short assured tenancy made by a landlord to the applicant in relation to any accommodation which is, or may become, available for the applicant's occupation,

(b) it is made, with the approval of the local authority, in pursuance of arrangements made by them with the landlord with a view to bringing their duty under subsection (2) to an end, and

(c) the tenancy being offered is for a period of at least 12 months.

(2E) The local authority shall not approve a private accommodation offer unless they are satisfied that it is reasonable for the applicant to accept the offer.

(2F) For the purposes of subsection (2E) an applicant may reasonably be expected to accept an offer even though he is under contractual or other obligations in respect of his existing accommodation, provided he is able to bring those obligations to an end before he is required to take up the offer.

(2G) In a restricted case the local authority shall, so far as reasonably practicable, bring their duty under subsection (2) to an end as mentioned in subsection (2A).

(2H) Subsections (2A) to (2G) are without prejudice to any other way in which the local authority can cease to be subject to the duty under subsection (2)."

(3) In subsection (3)—

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(a) for "In any other case, they" substitute " In a case not falling within subsection (2), the local authority ", and

(b) in paragraph (a) for "his", in the first place where it appears, substitute " the applicant's ".

Commencement Information

I504 Sch. 15 para. 12 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

13 (1) Section 32 (duties to persons found to be threatened with homelessness) is amended as follows.

(2) After subsection (2) insert—

"(2A) Subsection (2B) applies in a restricted threatened homelessness case where, in pursuance of the duty under subsection (2), the local authority secure that accommodation other than that occupied by the applicant when he made his application is available for occupation by him.

(2B) The provisions of section 31(2A) to (2H) (circumstances in which duty in restricted case ceases) apply, with any necessary modifications, in relation to the duty under subsection (2) as they apply in relation to the duty under section 31(2) in a restricted case (within the meaning of that section)."

(3) In subsection (3) for "In any other case they shall furnish him" substitute " In a case not falling within subsection (2) the local authority shall furnish the applicant ".

(4) After subsection (5) insert—

"(5A) In this section "a restricted threatened homelessness case" means a case falling within subsection (2) where the local authority would not be satisfied as mentioned in subsections (1) and (2) without having had regard to a restricted person."

Commencement Information

I505 Sch. 15 para. 13 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

14 (1) Section 34 (duties to persons whose applications are referred) is amended as follows.

(2) For subsection (2) substitute—

"(2) If it is determined that the conditions for referral—

(a) are satisfied, the notified authority are subject to the duty under section 31(2);

(b) are not satisfied, the notifying authority are subject to that duty."

(3) In subsection (3) for paragraph (a) (but not the "and" after it) substitute—

"(a) whether they or the notified authority are subject to the duty under section 31(2),".

(4) Omit subsection (6).

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Commencement Information
I506 Sch. 15 para. 14 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

15 In section 35A(2) (right to request review of decision) after paragraph (d) insert—

"(e) in a case where a private accommodation offer is made to the applicant, any decision—

(i) that the accommodation offered is not accommodation falling within section 32(5)(a) to (c), or

(ii) that the authority have discharged their duty to the applicant under section 32(8)."

Commencement Information
I507 Sch. 15 para. 15 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

16 In section 43 (minor definitions) at the appropriate places insert—

(a) " "private accommodation offer" has the meaning assigned to it by section 31(2D);",

(b) " "restricted person" has the meaning assigned to it by section 30(6);", and

(c) " "short assured tenancy" has the same meaning as in Part 2 of the Housing (Scotland) Act 1988;".

Commencement Information
I508 Sch. 15 para. 16 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

Housing (Northern Ireland) Order 1988 (S.I. 1988/1990 (N.I. 23))

17 Part 2 of the Housing (Northern Ireland) Order 1988 is amended as follows.

Commencement Information
I509 Sch. 15 para. 17 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

18 (1) Article 7A (persons not eligible for housing assistance) is amended as follows.

(2) In paragraph (4) for "another person" substitute " a person falling within paragraph (4A) ".

(3) After paragraph (4) insert—

"(4A) A person falls within this paragraph if the person—

(a) falls within a class specified in an order under section 119(1) of the Immigration and Asylum Act 1999; but

(b) is not a national of an EEA State or Switzerland."

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Commencement Information
I510 Sch. 15 para. 18 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

19 (1) Article 9 (notification of decision and reasons) is amended as follows.

(2) After paragraph (3) insert—

"(3A) If the Executive decides that the applicant is homeless, threatened with homelessness or has a priority need but would not have done so without having had regard to a restricted person, it shall also notify him of—

(a) the fact that its decision was reached on that basis,

(b) the name of the restricted person,

(c) the reason why the person is a restricted person, and

(d) the effect of Article 10(2E) and (2F) or (as the case may be) 11(2A) and (2B)."

(3) After paragraph (5) insert—

"(6) In this Article "a restricted person" means a person—

(a) who is not eligible for assistance under this Part,

(b) who is subject to immigration control within the meaning of the Asylum and Immigration Act 1996, and

(c) either—

(i) who does not have leave to enter or remain in the United Kingdom, or

(ii) whose leave to enter or remain in the United Kingdom is subject to a condition to maintain and accommodate himself, and any dependants, without recourse to public funds."

Commencement Information
I511 Sch. 15 para. 19 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

20 (1) Article 10 (duties to persons found to be homeless) is amended as follows.

(2) After paragraph (2) insert—

"(2A) In a restricted case the Executive shall cease to be subject to the duty under paragraph (2) if the applicant, having been informed of the possible consequence of refusal—

(a) accepts a private accommodation offer, or

(b) refuses such an offer.

(2B) For the purposes of this Article an offer is a private accommodation offer if—

(a) it is an offer of a private tenancy made by a landlord to the applicant in relation to any accommodation which is, or may become, available for the applicant's occupation,

(b) it is made, with the approval of the Executive, in pursuance of arrangements made by the Executive with the landlord with a view to bringing its duty under paragraph (2) to an end, and

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(c) the tenancy being offered is for a term certain of at least 12 months.

(2C) The Executive shall not approve a private accommodation offer unless it is satisfied that the accommodation is suitable for the applicant and that it is reasonable for him to accept the offer.

(2D) For the purposes of paragraph (2C) an applicant may reasonably be expected to accept an offer even though he is under contractual or other obligations in respect of his existing accommodation, provided he is able to bring those obligations to an end before he is required to take up the offer.

(2E) In a restricted case the Executive shall, so far as reasonably practicable, bring its duty under paragraph (2) to an end as mentioned in paragraph (2A).

(2F) In a restricted case the Executive shall also cease to be subject to the duty under paragraph (2) if the applicant, having been informed of the possible consequence of refusal, refuses a reasonable offer of accommodation under the Housing Selection Scheme.

(2G) For the purposes of paragraph (2F)—

(a) "the Housing Selection Scheme" means the scheme for the allocation of housing accommodation held by the Executive approved from time to time under Article 22 of the Order of 1981, and

(b) an offer of accommodation is reasonable if it is a reasonable offer within the meaning of that Scheme.

(2H) Paragraphs (2A) to (2G) are without prejudice to any other way in which the Executive can cease to be subject to the duty under paragraph (2)."

(3) After paragraph (4) insert—

"(5) In this Article—

"a private tenancy" has the same meaning as in the Private Tenancies (Northern Ireland) Order 2006,

"a restricted case" means a case falling within paragraph (2) where the Executive would not be satisfied as mentioned in paragraphs (1) and (2) without having had regard to a restricted person,

"a restricted person" has the same meaning as in Article 9."

Commencement Information

I512 Sch. 15 para. 20 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

21 (1) Article 11 (duties to persons found to be threatened with homelessness) is amended as follows.

(2) After paragraph (2) insert—

"(2A) Paragraph (2B) applies in a restricted threatened homelessness case where, in pursuance of the duty under paragraph (2), the Executive secures that accommodation other than that occupied by the applicant when he made his application is available for occupation by him.

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(2B) The provisions of Article 10(2A) to (2H) (circumstances in which duty in restricted case ceases) apply, with any necessary modifications, in relation to the duty under paragraph (2) as they apply in relation to the duty under Article 10(2) in a restricted case (within the meaning of that Article).”

(3) After paragraph (4) insert—

“(4A) In this Article—

“a restricted person” has the same meaning as in Article 9,

“a restricted threatened homelessness case” means a case falling within paragraph (2) where the Executive would not be satisfied as mentioned in paragraphs (1) and (2) without having had regard to a restricted person.”

Commencement Information
I513 Sch. 15 para. 21 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

Immigration and Asylum Act 1999 (c. 33)

22 (1) Section 119 of the Immigration and Asylum Act 1999 (persons subject to immigration control to be disregarded in determining another person's eligibility for accommodation or assistance) is amended as follows.

(2) In subsection (1)(b) for “another person” substitute “ a person falling within subsection (1A) ”.

(3) After subsection (1) insert—

“(1A) A person falls within this subsection if the person—

(a) falls within a class specified in an order under subsection (1); but

(b) is not a national of an EEA State or Switzerland.”

Commencement Information
I514 Sch. 15 para. 22 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 3**

PART 3

CONSEQUENTIAL AMENDMENTS

Criminal Justice and Immigration Act 2008 (c. 4)

23 The Criminal Justice and Immigration Act 2008 is amended as follows.

Commencement Information
I515 Sch. 15 para. 23 in force at 2.3.2009 by S.I. 2009/415, **art. 4(a)**

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24 Omit section 134(6) (support for designated persons: eligibility for certain housing assistance).

Commencement Information

I516 Sch. 15 para. 24 in force at 2.3.2009 by S.I. 2009/415, **art. 4(a)**

25 Omit section 135(7) (power to amend or repeal section 134(6)).

Commencement Information

I517 Sch. 15 para. 25 in force at 2.3.2009 by S.I. 2009/415, **art. 4(a)**

SCHEDULE 16

Section 321(1)

REPEALS AND REVOCATIONS

Commencement Information

I518 Sch. 16 partly in force; Sch. 16 in force for specified purposes at 22.9.2008 see s. 325(2)(b)
I519 Sch. 16 in force at 22.9.2008 for specified purposes by S.I. 2008/2358, **art. 4(b)**
I520 Sch. 16 in force at 1.12.2008 for specified purposes by S.I. 2008/3068, art. 5, **Sch.** (with arts. 6-13)
I521 Sch. 16 in force at 2.3.2009 for specified purposes by S.I. 2009/415, **art. 4(b)**
I522 Sch. 16 in force at 1.4.2009 for specified purposes by S.I. 2009/803, **art. 10**
I523 Sch. 16 in force at 20.5.2009 for specified purposes by S.I. 2009/1261, **art. 4**

Title	*Extent of repeal or revocation*
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entry for the Housing Corporation and the entries for, and Notes relating to, the Commission for the New Towns and the Urban Regeneration Agency.
Leasehold Reform Act 1967 (c. 88)	In section 1— (a) in subsections (1)(a) and (1A), the words “at a low rent”, (b) in subsection (3A)(b), the words “, 1AA”. Section 1A(2). Section 1AA. Section 4A. In section 9(1C), the words “, 1AA”. In section 9A(1), the words “, 1AA”. In section 32A(1)(b), the words “or if section 1AA above were not in force”. In Schedule 3, paragraph 6(1A). In Schedule 4, in paragraph 4, the words from “be authorised” to “Government to”.

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National Loans Act 1968 (c. 13)	In Schedule 1, in the entry relating to the New Towns Act 1981 (c. 64)— (a) in column 1, the words "(5)(6)", (b) in column 2, the words "and the Commission for the New Towns".
Local Government Act 1974 (c. 7)	Section 25(1)(ba). Section 26(7)(a).
Statutory Corporations (Financial Provisions) Act 1974 (c. 8)	In section 4(2), the words "and of the Commission for the New Towns".
House of Commons Disqualification Act 1975 (c. 24)	In Part 2 of Schedule 1, the entries relating to the Commission for the New Towns, the Housing Corporation and the Urban Regeneration Agency.
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Part 2 of Schedule 1, the entry relating to the Urban Regeneration Agency.
Race Relations Act 1976 (c. 74)	In Part 2 of Schedule 1A, the entry relating to English Partnerships.
Local Government, Planning and Land Act 1980 (c. 65)	Section 4(4)(b). In section 99(4)(e), the words "the Commission for the New Towns,". In Schedule 16, paragraph 6.
New Towns Act 1981 (c. 64)	Section 35. In section 36— (a) subsections (3) and (3A), (b) in subsection (4), the words from "; nor shall any" to the end. Section 37. Section 38. In section 41, in the heading, the words "to Commission". In section 58— (a) in the heading, the words "and Commission", (b) subsections (5) and (6). In section 58A— (a) in the heading, the words "and Commission", (b) subsections (4) and (5). In section 59— (a) in the heading, the words "and Commission", (b) in subsection (1), the words "or the Commission" where they first appear, (c) in subsection (2), the words "or the Commission". In section 60— (a) in the heading, the words "and Commission",

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(b) in subsection (1), paragraph (c) and the word “and” following it,
(c) subsection (4).

In section 61(2), the words “, (5) or (6)”.

Section 62B.

In section 63—
(a) in subsection (1), the words “or the Commission”,
(b) in subsection (2), the words “or the Commission, as the case may be”.

In section 67—
(a) in the heading, the words “Commission and”,
(b) in subsection (1), the words “The Commission and”,
(c) in subsection (1)(b), the word “respectively”,
(d) also in subsection (1), the words from “being, in the Commission's case” in paragraph (b) to the end of the subsection,
(e) subsection (1A),
(f) in subsection (2), the words “of the Commission and”,
(g) >in subsection (2), wherever appearing, the words “or the Commission”,
(h) in subsection (3), the words “the Commission or”.

In section 68—
(a) in subsection (1), the words from “of the Commission” to “and the accounts”,
(b) in subsection (1), the words “Commission or”,
(c) subsection (2A).

In section 69—
(a) in subsection (1), paragraph (a) and the word “and” following it,
(b) in subsection (1), the words from “and directions under” to the end,
(c) in subsection (2), paragraph (a) and the word “and” following it.

In section 70—
(a) paragraph (a),
(b) the words “of the Commission or”.

In section 71(2), the words “the Commission and”.

In section 72(1)(a), the words “or from the Commission”.

In section 77(3), the words “and paragraph 7 of Schedule 9 to this Act”.

In section 80(1)—
(a) the definition of “the Commission”,

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	(b) n the definition of "financial year", the words "or the Commission". In section 82(3), the words "paragraph 12 of Schedule 11, and". Schedule 9. In Schedule 10— (a) in the heading, the words "to Commission", (b) paragraph 4, (c) paragraph 5(1). In Schedule 11— (a) in the italic heading before paragraph 3, the words "to Commission and", (b) paragraphs 3 and 5, (c) paragraph 12 and the italic heading before it.
Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66)	In section 15, the words from "or under subsection (1)" to "similar provision)". In Schedule 2, in paragraph 1, the words from "or under subsection (1)" to "contains similar provision)".
Mobile Homes Act 1983 (c. 34)	In section 5(1), in the definition of "protected site", the words from "does not include" to "that,".
Building Act 1984 (c. 55)	In section 35A— (a) in the heading the word "certain", (b) subsections (2), (3) and (6).
New Towns and Urban Development Corporations Act 1985 (c. 5)	Section 1(3) and (4). Section 2. In Schedule 3, paragraphs 3, 5, 6(b), 8(b), 12(1)(b) and 16.
Housing Act 1985 (c. 68)	In section 85— (a) in subsection (3)(a), the words from "or payments" to "profits),", (b) subsections (5) and (5A). In section 125D(2), the word "and" following paragraph (a). In section 128(2), the words ", or as the case may be re-determined,". In section 136(2), the word "and" following paragraph (a). Section 156(5) and (6). In Schedule 5, in paragraph 13(5), the word "and" following paragraph (a).
Housing Associations Act 1985 (c. 69)	In section 10(2), paragraph (e) and the word "or" before it. Section 33A.
Landlord and Tenant Act 1985 (c. 70)	Section 28.

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	In section 39, the entry in the Table for "qualified accountant".
Housing (Scotland) Act 1987 (c. 26)	Section 34(6).
Landlord and Tenant Act 1987 (c. 31)	In section 53(2)(b), the words "or 42A". In section 58(1)(b), the words "the Commission for the New Towns or". In Schedule 2, paragraph 9 and the italic heading before it.
Housing Act 1988 (c. 50)	In section 9— (a) in subsection (3), the words from "or payments" to "profits)", (b) subsections (5) and (5A). In the italic heading before section 50, the words ": functions of Relevant Authority". Sections 50 and 51. Section 81(6). Section 133(6). In Schedule 6, paragraphs 7(3) and 24.
Local Government and Housing Act 1989 (c. 42)	In section 172(8), in the definition of "new town corporation", the words "the Commission for the New Towns or". Section 173(6). In Schedule 11, paragraph 58 and the italic heading before it.
Town and Country Planning Act 1990 (c. 8)	Section 8A(2).
Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991 (S.I. 1991/1997)	In the Schedule, paragraph 60 and the heading before it.
Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)	Section 65. Section 135. Section 137(1) to (3). Sections 158 to 173. Section 175. Section 177. Section 181(1) and (3). Sections 183 to 185. In section 188(6), paragraph (b) and the "and" before it. Schedules 17 to 20. In Schedule 21— (a) paragraph 3 and the italic heading before it, (b) paragraph 32 and the italic heading before it.
New Towns (Amendment) Act 1994 (c. 5)	The whole Act.
Local Government (Wales) Act 1994 (c. 19)	In Schedule 16, paragraphs 63(5) and 104 and the italic heading before paragraph 104.

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Criminal Justice and Public Order Act 1994 (c. 33)	In section 80(4), the words from "in the definition" to "1983 or".
Environment Act 1995 (c. 25)	In Schedule 10, paragraph 25(2).
Finance Act 1996 (c. 8)	In section 43A— (a) subsection (5)(e), (b) in subsection (6), the definition of "English Partnerships".
Family Law Act 1996 (c. 27)	In Schedule 8— (a) paragraph 53, (b) paragraph 59 and the italic heading before it.
Housing Act 1996 (c. 52)	Section 1(1A) and (1B). Section 28(1), (2), (5) and (6). Section 56. Section 105(2). Section 127(3). Section 143D(3). In section 199— (a) subsection (2), (b) in subsection (3), paragraph (a) and the word "or" following it, (c) subsection (4), (d) in subsection (5), the word "other". In section 202(1), the word "or" after paragraph (e). In Schedule 2, in paragraph 11(4)— (a) the words "or the Housing Corporation", (b) the words "or, as the case may be, the Housing Corporation". In Schedule 9, paragraphs 1 and 2(2), (4), (5), (6) and (8). In Schedule 13, paragraph 4 and the italic heading before it. In Schedule 18, paragraph 22(1)(f).
Housing Grants, Construction and Regeneration Act 1996 (c. 53)	Section 129. Section 145.
Housing Act 1996 (Consequential Provisions) Order 1996 (S.I. 1996/2325)	In Schedule 2, paragraphs 15(19), 18(4) to (7), (10)(a) and (12)(a), 19(7)(a) and 21(2).
Housing Act 1996 (Consequential Amendments) Order 1997 (S.I. 1997/74)	In the Schedule, paragraph 9(c).
Audit Commission Act 1998 (c. 18)	Sections 41 to 41B and 43. In Schedule 1— (a) paragraph 8(2)(c) and (ca), (b) paragraph 8A. In Schedule 2A, in paragraph 3— (a) paragraph (a) of the definition of "Audit Commission inspection",

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	(b) paragraph (e) of the definition of "national studies functions".
Government of Wales Act 1998 (c. 38)	In Schedule 15, paragraph 13. In Schedule 16, paragraphs 24 to 26, 61(1), 64, 65, 68(a), 83(3), 94 and 97(3).
Regional Development Agencies Act 1998 (c. 45)	Section 36 and the italic heading before it. Section 37. In section 38(10), in the definition of "qualifying transfer", paragraph (b). Schedule 9.
Urban Development Corporations in England (Transfer of Property, Rights and Liabilities) Commission for the New Towns) Order 1998 (S.I. 1998/85)	Article 3(1), (3), (4) and (5).
Greater London Authority Act 1999 (c. 29)	In section 333A— (a) in subsection (3)(b), the words from "(and see also" to the end of the paragraph, (b) in subsection (10), the words from "and the reference" to the end. In section 408— (a) subsection (3)(h) and (i), (b) subsection (6). Section 409(5).
Freedom of Information Act 2000 (c. 36)	In Part 6 of Schedule 1, the entries relating to the Commission for the New Towns, the Housing Corporation and the Urban Regeneration Agency.
Transport Act 2000 (c. 38)	In Schedule 5, paragraph 17.
Armed Forces Act 2001 (c. 19)	In Schedule 6, paragraph 30 and the italic heading before it.
Postal Services Act 2000 (Consequential Modifications No. 1) Order 2001 (S.I. 2001/1149)	In Schedule 1, paragraph 98 and the italic heading before it.
Commonhold and Leasehold Reform Act 2002 (c. 15)	Section 141. Section 156(2). In Schedule 10, paragraphs 6 and 7 and the italic heading before paragraph 6.
Deregulation (Disposals of Dwelling-houses by Local Authorities) Order 2002 (S.I. 2002/367)	The whole Order.
Communications Act 2003 (c. 21)	In Schedule 17, paragraph 123 and the italic heading before it.
Local Government Act 2003 (c. 26)	Section 109.
Anti-social Behaviour Act 2003 (c. 38)	Section 14(1)(b).

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Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2003 (S.I. 2003/1326)	Article 11(2), (3) and (4)(a). Article 18 and the heading before it.
Public Audit (Wales) Act 2004 (c. 23)	In Schedule 2, paragraphs 27 to 30 and 37.
Civil Partnership Act 2004 (c. 33)	In Schedule 9— (a) paragraph 18, (b) paragraph 23 and the italic heading before it.
Charities Act 2006 (c. 50)	In Schedule 8, paragraph 190.
Armed Forces Act 2006 (c. 52)	In Schedule 16, paragraph 139 and the italic heading before it.
Tribunals, Courts and Enforcement Act 2007 (c. 15)	In Schedule 22, paragraph 8 and the italic heading before it.
Local Government and Public Involvement in Health Act 2007 (c. 28)	Section 155(2) and (5).
Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194)	In Schedule 4, paragraph 83 and the heading before it.
Criminal Justice and Immigration Act 2008 (c. 4)	Section 134(6). Section 135(7).
Housing and Regeneration Act 2008 (c. 17)	Section 53(2).

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