



# Housing and Planning Act 2016

## 2016 CHAPTER 22

### PART 4

#### SOCIAL HOUSING IN ENGLAND

### CHAPTER 5

#### INSOLVENCY OF REGISTERED PROVIDERS OF SOCIAL HOUSING

##### *Restrictions on other insolvency procedures*

#### **104 Winding-up orders**

- (1) This section applies if a person other than the Secretary of State petitions for the winding-up of a registered provider that is—
  - (a) a company,
  - (b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014, or
  - (c) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.
- (2) The court may not exercise its powers on a winding-up petition unless—
  - (a) notice of the petition has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since that notice was given, or
  - (b) the Regulator of Social Housing has waived the notice requirement in paragraph (a).
- (3) If an application for a housing administration order in relation to the registered provider is made to the court in accordance with section 99 before a winding-up order is made on the petition, the court may exercise its powers under section 100 (instead of exercising its powers on the petition).

---

*Changes to legislation: Housing and Planning Act 2016, Cross Heading: Restrictions on other insolvency procedures is up to date with all changes known to be in force on or before 05 August 2023. 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) View outstanding changes*

---

- (4) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (2)(a).
- (5) The Regulator of Social Housing may waive the notice requirement under subsection (2)(a) only with the consent of the Secretary of State.
- (6) References in this section to the court's powers on a winding-up petition are to—
  - (a) its powers under section 125 of the Insolvency Act 1986 (other than its power of adjournment), and
  - (b) its powers under section 135 of the Insolvency Act 1986.

#### Commencement Information

**II** [S. 104](#) in force at 5.7.2018 by [S.I. 2018/805](#), [reg. 3\(a\)](#)

### 105 Voluntary winding up

- (1) This section applies to a private registered provider that is—
  - (a) a company,
  - (b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014, or
  - (c) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.
- (2) The registered provider has no power to pass a resolution for voluntary winding up without the permission of the court.
- (3) Permission may be granted by the court only on an application made by the registered provider.
- (4) The court may not grant permission unless—
  - (a) notice of the application has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since that notice was given, or
  - (b) the Regulator of Social Housing has waived the notice requirement in paragraph (a).
- (5) If an application for a housing administration order in relation to the registered provider is made to the court in accordance with section 99 after an application for permission under this section has been made and before it is granted, the court may exercise its powers under section 100.
- (6) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (4)(a).
- (7) The Regulator of Social Housing may waive the notice requirement under subsection (4)(a) only with the consent of the Secretary of State.
- (8) In this section “a resolution for voluntary winding up” has the same meaning as in the Insolvency Act 1986.

---

**Changes to legislation:** Housing and Planning Act 2016, Cross Heading: Restrictions on other insolvency procedures is up to date with all changes known to be in force on or before 05 August 2023. 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) View outstanding changes

---

---

**Commencement Information**

**I2** [S. 105](#) in force at 5.7.2018 by [S.I. 2018/805](#), [reg. 3\(a\)](#)

**106 Making of ordinary administration orders**

- (1) This section applies if a person other than the Secretary of State makes an ordinary administration application in relation to a private registered provider that is—
  - (a) a company, or
  - (b) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.
- (2) The court must dismiss the application if—
  - (a) a housing administration order is in force in relation to the registered provider, or
  - (b) a housing administration order has been made in relation to the registered provider but is not yet in force.
- (3) If subsection (2) does not apply, the court, on hearing the application, must not exercise its powers under paragraph 13 of Schedule B1 to the Insolvency Act 1986 (other than its power of adjournment) unless—
  - (a) either—
    - (i) notice of the application has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since that notice was given, or
    - (ii) the Regulator of Social Housing has waived the notice requirement in sub-paragraph (i), and
  - (b) there is no application for a housing administration order which is outstanding.
- (4) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (3)(a).
- (5) Paragraph 44 of Schedule B1 to the Insolvency Act 1986 (interim moratorium) does not prevent, or require the permission of the court for, the making of an application for a housing administration order.
- (6) On the making of a housing administration order in relation to a registered provider, the court must dismiss any ordinary administration application made in relation to the registered provider which is outstanding.
- (7) The Regulator of Social Housing may waive the notice requirement under subsection (3)(a)(i) only with the consent of the Secretary of State.
- (8) In this section “ordinary administration application” means an application in accordance with paragraph 12 of Schedule B1 to the Insolvency Act 1986.

---

**Commencement Information**

**I3** [S. 106](#) in force at 5.7.2018 by [S.I. 2018/805](#), [reg. 3\(a\)](#)

---

*Changes to legislation:* Housing and Planning Act 2016, Cross Heading: Restrictions on other insolvency procedures is up to date with all changes known to be in force on or before 05 August 2023. 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) View outstanding changes

---

## 107 Administrator appointments by creditors

- (1) Subsections (2) to (4) make provision about appointments under paragraph 14 or 22 of Schedule B1 to the Insolvency Act 1986 (powers to appoint administrators) in relation to a private registered provider that is—
  - (a) a company, or
  - (b) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.
- (2) If in any case—
  - (a) a housing administration order is in force in relation to the registered provider,
  - (b) a housing administration order has been made in relation to the registered provider but is not yet in force, or
  - (c) an application for a housing administration order in relation to the registered provider is outstanding,
 a person may not take any step to make an appointment.
- (3) In any other case, an appointment takes effect only if each of the following conditions are met.
- (4) The conditions are—
  - (a) either—
    - (i) that notice of the appointment has been given to the Regulator of Social Housing, accompanied by a copy of every document in relation to the appointment that is filed or lodged with the court in accordance with paragraph 18 or 29 of Schedule B1 to the Insolvency Act 1986 and that a period of 28 days has elapsed since that notice was given, or
    - (ii) that the Regulator of Social Housing has waived the notice requirement in sub-paragraph (i),
  - (b) that there is no outstanding application to the court for a housing administration order in relation to the registered provider, and
  - (c) that the making of an application for a housing administration order in relation to the registered provider has not resulted in the making of a housing administration order which is in force or is still to come into force.
- (5) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (4)(a) (and a copy of the accompanying documents).
- (6) The Regulator of Social Housing may waive the notice requirement under subsection (4)(a)(i) only with the consent of the Secretary of State.
- (7) Paragraph 44 of Schedule B1 to the Insolvency Act 1986 (interim moratorium) does not prevent, or require the permission of the court for, the making of an application for a housing administration order at any time before the appointment takes effect.

### Commencement Information

**I4** [S. 107](#) in force at 5.7.2018 by [S.I. 2018/805](#), [reg. 3\(a\)](#)

## 108 Enforcement of security

- (1) This section applies in relation to a private registered provider that is—

---

**Changes to legislation:** Housing and Planning Act 2016, Cross Heading: Restrictions on other insolvency procedures is up to date with all changes known to be in force on or before 05 August 2023. 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) [View outstanding changes](#)

---

- (a) a company,
  - (b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014, or
  - (c) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011
- (2) A person may not take any step to enforce a security over property of the registered provider unless—
  - (a) notice of the intention to do so has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since the notice was given, or
  - (b) the Regulator of Social Housing has waived the notice requirement in paragraph (a).
- (3) In the case of a company which is a foreign company, the reference to the property of the company is to its property in the United Kingdom.
- (4) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (2)(a).
- (5) The Regulator of Social Housing may waive the notice requirement under subsection (2)(a) only with the consent of the Secretary of State.

---

**Commencement Information**

**I5** [S. 108](#) in force at 5.7.2018 by [S.I. 2018/805](#), [reg. 3\(a\)](#)

**Changes to legislation:**

Housing and Planning Act 2016, Cross Heading: Restrictions on other insolvency procedures is up to date with all changes known to be in force on or before 05 August 2023. 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.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 172(1)(a) words renumbered as s. 172(1)(a) by [2017 c. 20 s. 26\(8\)\(a\)\(i\)](#)
- s. 172(1)(b) inserted by [2017 c. 20 s. 26\(8\)\(a\)\(ii\)](#)