



Housing and Regeneration Act 2008

2008 CHAPTER 17

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).

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.

<i>Chapter</i>	<i>Sections</i>	<i>Topic</i>	<i>Contents</i>
1	59 to 80	Introduction	(a) Preliminary (b) Social housing

Status: This is the original version (as it was originally enacted).

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6	192 to 217	Regulatory powers	(a) Standards (b) Monitoring (c) Management and constitution (d) Guidance (e) Managers of social housing
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<i>Chapter</i>	<i>Sections</i>	<i>Topic</i>	<i>Contents</i>
			(b) Miscellaneous

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
- (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)—

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- (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.

<i>Expression</i>	<i>Substitution</i>
“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.

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”,
- (d) for “him” substitute “them” (except in section 12A(4)), and
- (e) for “considers” substitute “consider”.

<i>Provision</i>	<i>Topic</i>
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

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<i>Provision</i>	<i>Topic</i>
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

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”.

<i>Provision</i>	<i>Topic</i>
Section 12A(8)(b)	Right of first refusal: regulations
Section 15A(6)(b)	Deferred resale agreements: order
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).

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).

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.

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.

Social housing

68 Basic principle

- (1) In this Part “social housing” means—
- (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).

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.

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”),
 - (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.

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.

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

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.

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).

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.

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.

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.

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- (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).
- (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.

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.

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.

- (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.

80 Provider of social housing

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

<i>Type of social housing</i>	<i>Provider</i>
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”.

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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.

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.

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—

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- (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.

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.

85 Other staff

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

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.

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- (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.

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.

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.

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).

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.

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.

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.

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.

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).

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—

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

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

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- (b) persons who may be forming a housing association (within the meaning of section 1(1) of that Act).

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.

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.

100 Charging

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

101 Assistance by Secretary of State

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

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

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.

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.

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.

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.

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

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- (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.

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—
 - (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).

CHAPTER 3

REGISTRATION

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.

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.

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- (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).

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.
- (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.

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;
 - (b) the information to be contained in it or provided with it;
 - (c) the manner in which an application is to be 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).

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—

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- (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
 - (b) fees outstanding.

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—
 - (a) the provider, and
 - (b) any authority consulted.
- (7) The regulator shall publish criteria set for the purposes of subsection (2)(c).

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, and
 - (c) in the case of a registered company (whether or not also a registered charity), the registrar of companies for England and Wales.
- (2) 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.

121 Appeal

- (1) A body may appeal to the High Court against a decision of the regulator—
 - (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

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
 - (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.

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—

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- (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.
- (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

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- (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.

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.

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.

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.
- (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

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- (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—
- (a) England and Wales,
 - (b) Northern Ireland, or
 - (c) any other country or territory in which a partnership is not a legal person.

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.

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.

- (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).

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.

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
 - (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

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(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).

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.

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—

(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.

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.

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—
 - (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).

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.

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.
- (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.

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.

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.

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- (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.

<i>Step</i>	<i>Person to give notice</i>
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

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.

Status: This is the original version (as it was originally enacted).

- (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.

<i>Step</i>	<i>Person</i>
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

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).

- (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.

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.
- (5) This group of sections applies to a further moratorium as to a first moratorium (except for section 146(2)).

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.

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
 - (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).

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.

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—
 - (a) dispose of land, or
 - (b) grant security over land.

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—

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- (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.

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.
- (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.

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.
- (3) Subsection (2) does not require or permit a breach of a fiduciary or other duty.

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).

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).

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- (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;
 - (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.

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.

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.
- (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.

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.

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.
- (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

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(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),
 - (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.

167 Transfer of property

- (1) This section applies—

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- (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.

CHAPTER 5

DISPOSAL OF PROPERTY

Introductory

170 Overview

This Chapter makes provision about the disposal of property by registered providers.

171 Power to dispose

- (1) A 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.
- (3) Subsection (1) is subject to the following provisions of this Chapter (which include provisions requiring the regulator's consent for certain disposals).

Regulator's consent

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.
- (3) Consent is not required under this section if the disposal falls within an exception listed in section 173.

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

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- (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,
 - (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.

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.

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.

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—
- (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.

*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.

*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

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- (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—
 - (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—

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- (a) the freeholder was a person within subsection (3), and
 - (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.

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”.

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.

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

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- (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
 - (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—

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- “(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).

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).

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.

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.

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.

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,
 - (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.

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—
 - (a) each proposed direction that is the subject of a consultation,
 - (b) each response to a consultation, and
 - (c) each direction.

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.

Monitoring

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.
- (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.

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.

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.
- (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.

203 Inspector's powers

- (1) An inspector may by notice require a person to provide specified documents or information.
- (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.

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- (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.

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
 - (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.

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.

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.

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.

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).

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.
- (3) If an inquiry is held in relation to a registered charity the regulator shall notify the Charity Commission.

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

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.
- (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).

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.

(7) The Secretary of State may by order amend the list in subsection (2).

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,

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- (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.

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.

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

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.

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 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 the assets of the registered provider require protection.
- (8) Case 7 is where the registered provider has given an undertaking under section 125 and failed to comply with it.

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- (9) Case 8 is where the registered provider has failed to pay an annual fee under section 117(2).
- (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
 - (c) this Chapter applies with the substitution of references to that other person for references to the registered provider.

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
 - (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

226 Overview

This group of sections allows the regulator to penalise failures on the part of registered providers by the imposition of fines.

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
 - (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.

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).

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—

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- (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.

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.

232 Notifying HCA

If the regulator imposes a penalty it must send a copy of the penalty notice to the HCA.

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.

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

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.

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.

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,
 - (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.

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.

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.

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
 - (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.

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.

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.

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 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, and

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- (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).

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).

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

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- (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
 - (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

- (1) This section applies if the regulator is satisfied that—
 - (a) a registered provider has failed to meet a standard 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—
 - (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).

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

- (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 land by a 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
 - (b) to another specified 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.

254 Section 253: supplemental

- (1) A transfer under section 253 shall be on terms specified in, or determined in accordance with, the requirement.

Status: This is the original version (as it was originally enacted).

- (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.

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.

Restrictions on dealings

256 Restrictions on dealings during inquiry

- (1) The regulator may make an order under this section if—

Status: This is the original version (as it was originally enacted).

- (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.
- (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.

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.

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.

*Suspension and removal of officers***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.
- (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.

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.

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.
- (3) The regulator may appoint a person to perform the suspended person's functions.

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.

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.

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.
- (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.

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.

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.

- (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.

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.

268 Appeal against removal or suspension

A person removed or suspended under section 259, 260 or 266 may appeal to the High Court.

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—
- (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.

CHAPTER 8

GENERAL

*Interpretation***270 Officer**

The Table gives the meaning of “officer” in relation to registered providers.

<i>Registered provider</i>	<i>Meaning of “officer”</i>
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

271 Subsidiary and associate

- (1) A company is a “subsidiary” of a person if any of the following conditions is satisfied.
- (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.

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.

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.

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),

“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),

Status: This is the original version (as it was originally enacted).

“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).

276 Index of defined terms

The Table lists expressions defined in this Part.

<i>Expression</i>	<i>Section</i>
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
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District valuer	Section 275
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Equity percentage arrangements	Section 70(5)
Family	Section 272
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Fundamental objectives	Section 86
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Status: This is the original version (as it was originally enacted).

<i>Expression</i>	<i>Section</i>
Low cost home ownership accommodation	Section 70
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Shared ownership arrangements	Section 70(4)
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Social housing	Section 68
Subsidiary	Section 271
Tenant	Section 275
Working day	Section 275

Miscellaneous

277 Consequential amendments

Schedule 9 (which contains amendments of enactments) has effect.

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.