

2010 No. 862 (C. 57)

HOUSING, ENGLAND AND WALES

**The Housing and Regeneration Act 2008 (Commencement No. 7
and Transitional and Saving Provisions) Order 2010**

Made - - - -

17th March 2010

The Secretary of State, in exercise of the powers conferred by sections 320, 322 and 325 of the Housing and Regeneration Act 2008(a), makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Housing and Regeneration Act 2008 (Commencement No. 7 and Transitional and Saving Provisions) Order 2010.

(2) In this Order—

“the 1988 Act” means the Housing Act 1988(b),

“the 1996 Act” means the Housing Act 1996(c),

“the 2008 Act” means the Housing and Regeneration Act 2008,

“the 2008 Order” means the Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008(d),

“the commencement date” means 1st April 2010,

“enactment” includes subordinate legislation (within the meaning given by section 21(1) of the Interpretation Act 1978(e)),

“English registered social landlord”, in relation to times, circumstances or purposes before the commencement date, means any person who, at the time in question—

(a) is a registered social landlord within the meaning of Part 1 of the 1996 Act as it then has effect and does not fall within section 56(2) of that Act as it then has effect, or

(b) has a corresponding registration under an earlier enactment,

“the HCA” means the Homes and Communities Agency, and

“the TSA” means the Regulator of Social Housing.

(3) References in this Order to repeals include revocations.

Commencement of provisions: Parts 1 and 2

2. Subject to the transitional and saving provisions in the Schedule to this Order, the following provisions of the 2008 Act shall come into force on the commencement date—

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- (a) 2008 c.17.
(b) 1988 c.50.
(c) 1996 c.52.
(d) S.I. 2008/2839.
(e) 1978 c.30.

Section 4 (general powers of HCA), so far as it is not already in force
Section 19 (financial assistance), so far as it is not already in force
Section 31 (duties in relation to social housing)
Sections 32 and 33 (social housing), so far as they are not already in force
Section 35 (recovery etc. of social housing assistance)
Section 56 and Schedule 8 (consequential amendments), so far as they are not already in force
Sections 57 and 58 (interpretation), so far as they are not already in force
Sections 60 to 63 (preliminary)
Section 64(3) (dissolution of Housing Corporation)
Section 67 (transitional arrangements), so far as it is not already in force
Sections 68 to 71 (social housing: basic principle and definitions), so far as they are not already in force
Sections 73 to 80 (social housing stock, and other key concepts relating to the regulator), so far as they are not already in force
Section 86 (fundamental objectives of the regulator), so far as it is not already in force
Section 94 (studies)
Section 95 (financial assistance) and sections 96 to 98 (powers of the regulator under Part 2), so far as they are not already in force
Section 106 (direction to the HCA)
Sections 107 to 109 (information)
Sections 110 and 111 (registration)
Section 112 (eligibility for registration), so far as it is not already in force
Section 113 (local authority non-registrable bodies), so far as it is not already in force
Section 115 (profit-making and non-profit organisations)
Section 116 (entry), so far as it is not already in force
Section 117 (fees), so far as it is not already in force
Section 118 (compulsory de-registration)
Section 119 (voluntary de-registration), so far as it is not already in force
Sections 120 and 121 (notice of, and appeals from, registration decisions)
Sections 122 to 126 (general provisions relating to registered providers)
Section 127 (directions), so far as it is not already in force
Sections 128 to 130 (accounts)
Section 131 (exempt companies: reporting accountant), so far as it is not already in force
Section 132 (application of Companies Act)
Section 133 (exempt companies: extraordinary audit)
Section 134 (non-audited industrial and provident societies)
Sections 135 to 140 (audit of charities etc.)
Sections 141 and 142 (offences etc.)
Section 143 (disclosure)
Sections 144 and 145 (insolvency), so far as they are not already in force
Sections 146 to 159 (insolvency)
Sections 160 to 169 (restructuring and dissolution)
Sections 170 to 173 (disposal of property)
Section 174 (procedure), so far as it is not already in force

Sections 175 to 191 (disposal of property)
 Section 198 (supplemental), so far as it is not already in force
 Sections 199 to 201 (surveys and inspections)
 Section 202 (inspections: supplemental), so far as it is not already in force
 Sections 203 to 210 (monitoring)
 Section 211 (management and constitution)
 Section 212 (industrial and provident society: change of rules), so far as it is not already in force
 Section 213 (charities: change of objects)
 Section 214 (companies: change of articles), so far as it is not already in force
 Section 215 (use of intervention powers), so far as it is not already in force
 Section 217 (accreditation)
 Section 218 (exercise of enforcement powers)
 Sections 219 to 227 (enforcement powers: enforcement notices)
 Section 228 (enforcement notices: imposition), so far as it is not already in force
 Sections 229 to 233 (enforcement powers: penalty notices)
 Section 234 (penalty notices: enforcement), so far as it is not already in force
 Section 235 (penalty notices: appeal)
 Sections 236 to 239 (enforcement powers: compensation notices)
 Section 240 (Compensation notices: award), so far as it is not already in force
 Sections 241 to 243 (enforcement powers: compensation notices)
 Section 244 (compensation notices: enforcement), so far as it is not already in force
 Section 245 (compensation notices: appeal)
 Sections 246 to 269 (management)
 Sections 270 to 274 (Part 2: general)
 Sections 275 and 276 (interpretation etc. of Part 2), so far as they are not already in force
 Section 277 (consequential amendments) and Schedule 9, so far as they are not already in force
 Section 278 (transitional).

Repeals

3. Subject to the transitional and saving provisions in the Schedule to this Order, section 321(1) of, and Schedule 16 (repeals and revocations) to, the 2008 Act shall come into force on the commencement date so far as they relate to the repeals of the following.

<i>Title</i>	<i>Repeal</i>
Housing Associations Act 1985 (c.69)	In section 10(2), paragraph (e) and the word “or” before it. Section 33A.
Housing Act 1988 (c.50)	In the italic heading before section 50, the words “: functions of Relevant Authority”. Sections 50 and 51. Section 81(6). Section 133(6).
Local Government and Housing Act 1989 (c.42)	In Schedule 6, paragraphs 7(3) and 24. Section 173(6).
Housing Act 1996 (c.52)	Section 1(1A) and (1B). Section 28(1), (2), (5) and (6).

	Section 56. In Schedule 2, in paragraph 11(4)—
	(a) the words “or the Housing Corporation”,
	(b) the words “or, as the case may be, the Housing Corporation”.
Housing Act 1996 (Consequential Provisions) Order 1996 (S.I. 1996/2325)	In Schedule 2, paragraphs 15(19), 18(4) to (7), (10)(a) and (12)(a), and 19(7)(a).
Housing Act 1996 (Consequential Amendments) Order 1997 (S.I. 1997/74)	In the Schedule, paragraph 9(c).
Audit Commission Act 1998 (c.18)	Sections 41 to 41B and 43. In Schedule 1, paragraphs 8(2)(c) and (ca), and 8A. In Schedule 2A, in paragraph 3—
	(a) paragraph (a) of the definition of “Audit Commission inspection”,
	(b) paragraph (e) of the definition of “national studies functions”.
Government of Wales Act 1998 (c.38)	In Schedule 16, paragraphs 24 to 26, 61(1), 64, 65, 68(a), 83(3), 94 and 97(3).
Local Government Act 2003 (c.26)	Section 109.
Public Audit (Wales) Act 2004 (c.23)	In Schedule 2, paragraphs 27 to 30 and 37.
Charities Act 2006 (c.50)	In Schedule 8, paragraph 190.
Local Government and Public Involvement in Health Act 2007 (c.28)	Section 155(2) and (5).
Housing and Regeneration Act 2008 (c.17)	Section 53(2).

Signed by authority of the Secretary of State for Communities and Local Government

John Healey
Minister of State

17th March 2010

Department for Communities and Local Government

SCHEDULE

Articles 2 and 3

Transitional and saving provisions: Parts 1 and 2

General provisions

Registered social landlords and Part 1 and 2 references

1.—(1) Nothing in this Order affects the validity of anything done (or having effect as if done) by or in relation to an English registered social landlord before the commencement date.

(2) A reference (express or implied) in any provision of Part 1 or 2 of the 2008 Act brought into force by this Order to a provision of either Part is, so far as the context permits, to be read as including, in relation to times, circumstances or purposes before the commencement date, a reference to any corresponding former provision of Part 1 of the 1996 Act or any corresponding earlier enactment.

(3) In particular, a reference (express or implied) in any provision of Part 1 or 2 of the 2008 Act brought into force by this Order to registration as a provider of social housing (without further differentiation), registration as a private provider of social housing (without further differentiation) or registration as a non-profit provider of social housing (with or without further differentiation) is, so far as the context permits, to be read as including, in relation to times, circumstances or

purposes before the commencement date, a reference to registration as an English registered social landlord.

(4) Anything done (or having effect as if done) by or in relation to a person as an English registered social landlord (or a prospective English registered social landlord) is, if in force or effective immediately before the commencement date, to have effect for the purposes of any provision brought into force or saved by this Order as if done by or in relation to that person as a non-profit registered provider of social housing (or a prospective non-profit registered provider of social housing) so far as that is required for continuing its effect on and after the commencement date.

(5) In particular, anything done (or having effect as if done) by or in relation to a person as an English registered social landlord (or a prospective English registered social landlord) under a provision of Part 1 of the 1996 Act which is repealed and re-enacted, with or without modifications, by or under any provision of Part 1 or 2 of the 2008 Act brought into force by this Order is, if in force or effective immediately before the commencement date, to have effect as if done under the corresponding provision of the 2008 Act by or in relation to a non-profit registered provider of social housing (or a prospective non-profit registered provider of social housing) so far as that is required for continuing its effect on and after the commencement date.

(6) The references in sub-paragraphs (1), (4) and (5) to things done include references to things omitted to be done.

(7) The references in sub-paragraphs (2), (3) and (5) to provisions of Part 1 or 2 of the 2008 Act brought into force by this Order include references to amendments made by either Part and brought into force by this Order.

(8) Any provisions in this Schedule which achieve the same result in a particular case as that achieved by this paragraph do not limit the scope of this paragraph.

(9) This paragraph is subject to any other provisions of this Schedule.

New references to registered social landlords

2. Any saving or transitional provision, or any provision about the continuity of the law, which was made by or under the 1996 Act and is in force or effective immediately before the commencement date in relation to a reference (express or implied) to a registered social landlord is to continue to apply, on and after that date, in relation to any corresponding reference to a registered social landlord in an amendment brought into force by this Order so far as the provision concerned remains capable of having effect in relation to that reference.

The TSA, the HCA and the Housing Corporation

3.—(1) Nothing in this Order affects the validity of anything done (or having effect as if done) by or in relation to the HCA, the TSA or the Housing Corporation before the commencement date.

(2) Article 6(2) of the 2008 Order continues to apply on and after the commencement date in relation to any instrument or other document (other than an Act, devolved legislation or subordinate legislation) so far as required for the purposes of any substitution brought into force by this Order of the HCA or the TSA for the Housing Corporation.

(3) Anything which, immediately before the commencement date, is being continued by or in relation to the HCA or the TSA by virtue of article 6(3) of the 2008 Order may, so far as necessary for the purposes of this Order, continue to be so continued on and after the commencement date.

(4) Anything which has effect as if done by or in relation to the HCA or the TSA by virtue of article 6(4) of the 2008 Order is, if in force or effective immediately before the commencement date and so far as necessary for continuing its effect on and after the commencement date for the purposes of this Order, to continue to have effect as if done by or in relation to the HCA or the TSA.

(5) The references in sub-paragraph (1) and (4) to things done include references to things omitted to be done.

(6) In this paragraph—

- (a) “devolved legislation” means an Act of the Scottish Parliament, a Measure of the National Assembly for Wales or Northern Ireland legislation,
- (b) “Northern Ireland legislation” has the same meaning as in section 24 of the Interpretation Act 1978, and
- (c) “subordinate legislation” has the same meaning as in the Interpretation Act 1978(a) and also includes an instrument made under an Act of the Scottish Parliament, a Measure of the National Assembly for Wales or Northern Ireland legislation.

Savings

4. Any saving made by this Schedule of any enactment, instrument or other document includes a saving of any consent given or other thing done or omitted to be done under or in connection with the enactment, instrument or other document so far as that is required for continuing the effect, on and after the commencement date, of the consent given or other thing done or omitted to be done.

Registration

Outstanding applications for registration

5.—(1) Sub-paragraph (2) applies if—

- (a) a person has made an application before the commencement date in accordance with section 3 of the 1996 Act (registration) for registration as an English registered social landlord, and
- (b) the application has not been determined by the TSA or withdrawn before that date.

(2) The application is to be treated, on and after the commencement date, as an application made in accordance with Chapter 3 of Part 2 of the 2008 Act for registration as a non-profit registered provider of social housing.

Outstanding requests for removal from the register

6.—(1) Sub-paragraph (2) applies if—

- (a) an English registered social landlord has made a request before the commencement date under section 4(4) of the 1996 Act (removal from register) to be removed from the register, and
- (b) the request has not been determined by the TSA or withdrawn before that date.

(2) The request is to be treated, on and after the commencement date, as a request under section 119 of the 2008 Act (de-registration: voluntary).

(3) For this purpose, any consultation wholly or partly undertaken before the commencement date under section 4(5) of the 1996 Act is to be treated as a consultation wholly or partly undertaken under section 119(3) of the 2008 Act.

Outstanding steps in relation to compulsory removal from the register

7.—(1) Sub-paragraph (2) applies if—

- (a) the TSA has given notice to an English registered social landlord before the commencement date under section 4(2) of the 1996 Act that the TSA intends to remove it from the register,
- (b) the period of 14 days mentioned in section 4(2) of that Act has ended before the commencement date, but
- (c) the TSA has neither removed the English registered social landlord from the register before that date nor decided before that date not to remove it from the register.

(a) 1978 c.30.

(2) The TSA may, on or after the commencement date, exercise the power under section 118(1) of the 2008 Act (de-registration: compulsory) to remove the person from the register.

(3) For this purpose, the TSA is to be treated as having met the requirements of section 118(2) of the 2008 Act.

(4) Sub-paragraph (5) applies if—

- (a) the TSA has given notice to an English registered social landlord before the commencement date under section 4(2) of the 1996 Act that the TSA intends to remove it from the register, and
- (b) the period of 14 days mentioned in section 4(2) of that Act has not ended before the commencement date.

(5) The notice is to be treated, on and after the commencement date, as a notice under section 118(2) of the 2008 Act.

(6) Accordingly, the relevant days before the commencement date are to be counted for the purposes of the notice period.

Outstanding rights of appeal

8.—(1) Sub-paragraph (2) applies if, immediately before the commencement date, a person—

- (a) has a right of appeal under section 6(1) of the 1996 Act (appeal against decision on removal) in relation to registration, or prospective registration, as an English registered social landlord, but
- (b) has not exercised that right.

(2) The right of appeal is to be treated, on and after the commencement date, as a right of appeal under section 121 of the 2008 Act (appeal) in relation to a corresponding decision of the TSA in relation to registration, or prospective registration, as a non-profit registered provider of social housing.

Outstanding appeals

9.—(1) Sub-paragraph (2) applies if—

- (a) a person has made an appeal before the commencement date under section 6 of the 1996 Act in relation to registration, or prospective registration, as an English registered social landlord, and
- (b) the appeal has not been finally determined or withdrawn before that date.

(2) The appeal is to be treated, on and after the commencement date, as an appeal under section 121 of the 2008 Act in relation to a corresponding decision of the TSA in relation to registration, or prospective registration, as a non-profit registered provider of social housing.

Outstanding notifications

10.—(1) Sub-paragraph (2) applies if the TSA—

- (a) has registered a person as an English registered social landlord before the commencement date or removed an English registered social landlord from the register before that date, but
- (b) has not given notice under section 3(3) or (as the case may be) 4(6) of the 1996 Act before that date.

(2) The TSA must give such a notice as soon as reasonably practicable on or after the commencement date.

(3) Any such notice under section 3(3) of the 1996 Act must include an explanation of the effect of section 278 of the 2008 Act (transitional).

(4) Sub-paragraph (5) applies if—

- (a) a person has appealed under section 6(1) of the 1996 Act before the commencement date, but
 - (b) the TSA has not given notice under section 6(3) of that Act before that date.
- (5) The TSA must give such a notice as soon as reasonably practicable on or after the commencement date.
- (6) Any such notice must include an explanation of the effect of section 278 of the 2008 Act.

Non-stockholding registered social landlords

11.—(1) Sub-paragraph (2) applies to a person who is included in the register of providers of social housing by virtue of section 278 of the 2008 Act but does not meet condition 1 in section 112 of that Act.

(2) Nothing in section 118 or 119 of that Act requires the de-registration of such a person on the ground that the person does not meet that condition.

Disposal of property

Priority of mortgages: saving

12.—(1) The priority provisions continue to apply on and after the commencement date in relation to the priority of mortgages (whether entered into before, on or after that date) securing a person’s liability to make payments to English registered social landlords or private registered providers of social housing.

(2) In their application by virtue of sub-paragraph (1), the priority provisions have effect—

- (a) without any amendments or repeals of them which are brought into force by this Order, and
- (b) as if references to social landlords or registered social landlords—
 - (i) in relation to times, circumstances or purposes before the commencement date, related only to English registered social landlords, and
 - (ii) in relation to times, circumstances or purposes on and after the commencement date, were references to private registered providers of social housing.

(3) In this paragraph “the priority provisions” means articles 2 and 4 of the Social Landlords (Permissible Additional Purposes or Objects) Order 1996^(a) and article 3 of the Social Landlords (Additional Purposes or Objects) Order 1999^(b) and any other enactment, instrument or other document so far as it has effect under or otherwise in connection with those articles.

Disposals made before commencement date

13.—(1) The disposal provisions continue to apply on and after the commencement date in relation to any disposal made by an English registered social landlord before that date.

(2) In their application by virtue of sub-paragraph (1), the disposal provisions have effect—

- (a) without any amendments or repeals of them brought into force by this Order,
- (b) as if the 2008 Order were not revoked, and
- (c) as if references to registered social landlords or their registration—
 - (i) in relation to times, circumstances or purposes before the commencement date, related only to English registered social landlords, and
 - (ii) in relation to times, circumstances or purposes on and after the commencement date, were references to non-profit registered providers of social housing or their registration.

(a) S.I. 1996/2256.

(b) S.I. 1999/985.

(3) In this paragraph “the disposal provisions” means sections 8 to 15A of the 1996 Act and any other enactment, instrument or other document so far as it has effect under or otherwise in connection with those sections.

Disposals made on or after commencement date by former registered social landlords

14.—(1) Sub-paragraph (2) applies if a person who was removed as an English registered social landlord from the register of social landlords before the commencement date makes a disposal on or after that date.

(2) Section 186 of the 2008 Act (former registered providers) applies, on and after the commencement date, to that person as if the person had ceased to be a private registered provider of social housing.

Disposal proceeds fund

15.—(1) Sub-paragraphs (2) to (7) apply in relation to determinations under sections 24 and 25 of the 1996 Act (disposal proceeds fund) so far as they are in force immediately before the commencement date in relation to English registered social landlords.

(2) A determination under section 24(2)(d) of the 1996 Act is to be treated, on and after the commencement date, as a specification under section 177(2)(i) or (as the case may be) (j) of the 2008 Act (separate accounting).

(3) A determination under section 24(3) of the 1996 Act is to be treated, on and after the commencement date, as a determination under section 177(3) of the 2008 Act.

(4) A determination of the kind mentioned in section 24(5) of the 1996 Act is to be treated, on and after the commencement date, as a direction under section 177(4) of the 2008 Act.

(5) A determination under section 24(6) of the 1996 Act is to be treated, on and after the commencement date, as a determination under section 177(7) of the 2008 Act.

(6) A determination under section 25(1) of the 1996 Act is to be treated, on and after the commencement date, as a direction under section 178(1) of the 2008 Act.

(7) A determination under section 25(2) of the 1996 Act is to be treated, on and after the commencement date, as a specification under section 178(3) of the 2008 Act (use of proceeds).

(8) For the purposes of sub-paragraphs (2) to (7), the determinations concerned are to be read as modified accordingly.

Other disposal consent regimes: savings of general consents

16.—(1) The general consents mentioned in sub-paragraph (2) and made under section 171D of the Housing Act 1985 (subsequent dealings: disposal of landlord’s interest in qualifying dwelling-house) or section 133 of the 1988 Act (consent required for certain subsequent disposals) continue to apply in relation to disposals made on or after the commencement date as if—

- (a) the consents were made by the TSA, and
- (b) any references in them to the First Secretary of State or registered social landlords were references to the TSA or (as the case may be) private registered providers of social housing.

(2) The general consents referred to in sub-paragraph (1) are those made by the First Secretary of State on 21st March 2005 in relation to land or houses in England, namely—

- (a) the general consent under section 171D of the Housing Act 1985 in relation to dwelling-houses in England,
- (b) the general consent under section 133 of the 1988 Act for small disposals,
- (c) the general consent under section 133 of the 1988 Act for the sale of a dwelling-house under a contractual right to buy,

- (d) the general consent under section 133 of the 1988 Act for disposals on shared ownership terms,
- (e) the general consent under section 133 of the 1988 Act for the grant of a lease of business accommodation,
- (f) the general consent under section 133 of the 1988 Act for the grant of a short lease for community purposes of special needs housing, and
- (g) the general consent under section 133 of the 1988 Act for the disposal of reversionary interests in houses and flats.

Other disposal consent regimes: transitional provisions

17.—(1) The consent provisions continue to have effect on and after the commencement date in relation to any disposal made by an English registered social landlord before the commencement date as if—

- (a) those provisions were not amended by sections 190 and 191 of the 2008 Act (consent to disposal under other legislation) or any order under section 114 of that Act (registration of local authorities), and
- (b) the 2008 Order were not revoked.

(2) Sub-paragraph (3) or (4) applies if—

- (a) an English registered social landlord has made an application for consent to the Secretary of State under any consent provision before the commencement date, and
- (b) the application has not been determined or withdrawn before that date.

(3) If the application was made 28 days or more before the commencement date, it is to be determined on or after that date by the Secretary of State (and, for this purpose, the consent provision concerned is to be treated as if the amendments made to it by sections 190 and 191 of the 2008 Act and any order under section 114 of that Act were not made and as if the 2008 Order were not revoked).

(4) If the application was made less than 28 days before the commencement date, it is to be treated on and after that date as if made to the TSA under the consent provision concerned (as it has effect on and after that date).

(5) The amendments made to the consent provisions by sections 190 and 191 of the 2008 Act do not affect the validity of any consent given under those provisions before the commencement date.

(6) Anything done or omitted to be done by or in relation to the Secretary of State for the purposes of or in connection with any function transferred by sections 190 and 191 of the 2008 Act is, if in force or effective immediately before the commencement date, to have effect as if done or omitted to be done by or in relation to the TSA so far as that is required for continuing its effect on and after the commencement date.

(7) In this paragraph “the consent provisions” means section 171D(2) to (4) of the Housing Act 1985(a), sections 81 and 133 of the 1988 Act and section 173 of the Local Government and Housing Act 1989(b) and any other enactment, instrument or other document so far as it has effect under or otherwise in connection with those sections.

Right of tenant to acquire dwelling: outstanding applications

18.—(1) The acquisition provisions continue to apply on and after the commencement date in relation to any case where—

- (a) a claim was made before the commencement date to exercise a right to acquire in relation to an interest in land in England held by an English registered social landlord, but
- (b) the claim was not determined, or any acquisition was not completed, before that date.

(a) 1985 c.68. Section 171D was inserted by section 8 of the Housing and Planning Act 1986 (c.63).

(b) 1989 c.42.

- (2) In their application by virtue of sub-paragraph (1), the acquisition provisions have effect—
- (a) without any amendments or repeals of them brought into force by this Order or made by an order under section 114 of the 2008 Act,
 - (b) as if the 2008 Order were not revoked, and
 - (c) as if references to registered social landlords were or (as the case may be) included, in relation to times, circumstances or purposes on and after the commencement date, references to private registered providers of social housing.

(3) Section 35 of the 2008 Act (duty to give financial assistance in relation to certain disposals) applies in respect of any discount given to a person exercising the right to acquire by virtue of this paragraph as it applies in respect of any discount given to a person exercising the right to acquire conferred by section 180 of that Act.

(4) In this paragraph “the acquisition provisions” means sections 16 to 17 of the 1996 Act (right to acquire) and any other enactment, instrument or other document so far as it has effect under or otherwise in connection with those sections.

Grants

Outstanding social housing grant applications

19.—(1) Sub-paragraph (2) applies to an application made before the commencement date for grant under section 18 or 27A of the 1996 Act (grants) where the application was not determined or withdrawn before the commencement date and, immediately before that date, the HCA was responsible for determining the application.

(2) The application is to be treated, on and after that date, as an application for social housing assistance by way of grant under section 19 of the 2008 Act (financial assistance).

Outstanding purchase grant applications

20.—(1) Sub-paragraph (2) applies to an application made before the commencement date for grant under section 20 of the 1996 Act (purchase grant where right to acquire exercised) where—

- (a) the application was not determined or withdrawn before the commencement date and, immediately before that date, the HCA was responsible for determining the application, or
- (b) the application was determined before the commencement date in favour of the applicant but no grant was paid before that date and, immediately before that date, the HCA was responsible for paying the grant.

(2) The application is to be treated, on and after that date, as an application (or, as the case may be, a determined application) for financial assistance by way of grant under section 19 of the 2008 Act.

(3) The requirement for the consent of the Secretary of State in section 19(1) of the 2008 Act is to be treated as having been met in the case of determined applications.

(4) Section 35 of the 2008 Act (duty to give financial assistance in relation to certain disposals) applies to an application to which sub-paragraph (2) applies as if the application were in respect of any discount given to a person exercising the right to acquire conferred by section 180 of the 2008 Act (right to acquire).

(5) Sub-paragraph (6) applies to an application made before the commencement date for grant under section 21(2) of the 1996 Act (purchase grant in respect of other disposals) where—

- (a) the application was not determined or withdrawn before the commencement date and, immediately before that date, the HCA was responsible for determining the application, or
- (b) the application was determined before the commencement date in favour of the applicant but no grant was paid before that date and, immediately before that date, the HCA was responsible for paying the grant.

(6) The application is to be treated, on and after that date, as an application (or, as the case may be, a determined application) for financial assistance by way of grant under section 19 of the 2008 Act.

(7) The requirement for the consent of the Secretary of State in section 19(1) of the 2008 Act is to be treated as having been met in the case of determined applications.

(8) Section 35 of the 2008 Act applies to an application to which sub-paragraph (6) applies as if the application were in respect of any discount given on a disposal of a dwelling in England to a qualifying tenant otherwise than in pursuance of the right conferred by section 180 of the 2008 Act.

(9) Any specification which, immediately before the commencement date, is in force and made (or treated as made) by the HCA under section 20(3) or 21(3) of the 1996 Act is to be treated on and after that date as if it were made under section 35(5) of the 2008 Act in relation to the type of grants concerned; and the specification is to be read as modified accordingly.

Grants already made or in payment under the 1996 Act

21.—(1) The grant provisions continue to apply on and after the commencement date in relation to—

- (a) a grant where the application was determined before the commencement date in favour of the applicant but no grant was paid before that date and, immediately before that date, the HCA was responsible for paying the grant, and
- (b) a grant wholly or partly paid by the HCA before that date (or treated as so paid).

(2) In their application by virtue of sub-paragraph (1), the grant provisions have effect—

- (a) without any amendments or repeals of them brought into force by this Order,
- (b) as if the 2008 Order were not revoked, and
- (c) as if references to registered social landlords—
 - (i) in relation to times, circumstances or purposes before the commencement date, related only to English registered social landlords, and
 - (ii) in relation to times, circumstances or purposes on and after the commencement date, were references to private registered providers of social housing.

(3) In this paragraph “the grant provisions” means sections 18, 19, 27, 27A, 27B, 53 and 54 of the 1996 Act and any other enactment, instrument or other document so far as it has effect under or otherwise in connection with those sections.

Determinations in relation to grant recovery

22. Any determination which, immediately before the commencement date, is in force and made (or treated as made) by the HCA under section 27 of the 1996 Act (recovery etc. of social housing grant) is to be treated, on and after that date, in relation to social housing assistance given (or treated as given) under section 19 of the 2008 Act to private registered providers of social housing as if it were a determination made under section 32 of the 2008 Act (recovery etc. of social housing assistance) in relation to such persons; and the determination is to be read as modified accordingly.

Housing Management Accreditation Scheme

23.—(1) The Housing Management Accreditation Scheme published by the Housing Corporation in March 2006 and operated by the HCA is to continue to apply on and after the commencement date.

(2) Sub-paragraph (1) is without prejudice to the power of the HCA to amend or revoke the scheme.

Information

Outstanding information notices, directions and publications

24.—(1) Sections 30 and 31 of the 1996 Act (power to obtain information) continue to apply on and after the commencement date to notices served before that date in relation to English registered social landlords.

(2) Section 35(2) and (3) of the 1996 Act (information as to levels of performance) continues to apply on and after the commencement date in relation to directions given before that date in relation to English registered social landlords.

(3) Section 35(4) and (5) of the 1996 Act continues to apply on and after the commencement date for the purposes of arranging for the publication in the year which includes the commencement date of information collected by, or provided to, the TSA before that date.

(4) In their application by virtue of sub-paragraphs (1) to (3), those sections have effect—

- (a) without any amendments or repeals of them brought into force by this Order,
- (b) as if the 2008 Order were not revoked, and
- (c) as if references to registered social landlords—
 - (i) in relation to times, circumstances or purposes before the commencement date, related only to English registered social landlords, and
 - (ii) in relation to times, circumstances or purposes on and after the commencement date, were references to private registered providers of social housing.

(5) References in this paragraph to section 30, 31 or 35(2) to (5) of the 1996 Act include references to any other enactment, instrument or other document so far as it has effect under or otherwise in connection with the enactment in question.

Use of information

25. The TSA may, on or after the commencement date and subject to section 109 of the 2008 Act (disclosure of information), use in the exercise of its functions any information obtained by it before that date (including information so obtained from the Housing Corporation).

Insolvency etc

Insolvency etc

26.—(1) The insolvency provisions continue to apply on and after the commencement date in relation to any case where a notice under section 40(1) or 41(1) of the 1996 Act (notices to the relevant authority) was given before the commencement date in relation to an English registered social landlord.

(2) In their application by virtue of sub-paragraph (1), the insolvency provisions have effect—

- (a) without any amendments or repeals of them brought into force by this Order,
- (b) as if the 2008 Order were not revoked,
- (c) as if references to registered social landlords—
 - (i) in relation to times, circumstances or purposes before the commencement date, related only to English registered social landlords, and
 - (ii) in relation to times, circumstances or purposes on and after the commencement date, were references to private registered providers of social housing,
- (d) as if the reference in section 42(3) of the 1996 Act (moratorium on disposal of land etc.) to section 10(1), (2) or (3) were a reference to section 173 of the 2008 Act (exceptions), and

- (e) as if, in article 5 of the 2008 Order, the reference to a direction under section 27(2)(b) of the 1996 Act (recovery etc. of social housing grant) included a reference to a direction under section 32(4) of the 2008 Act (recovery etc. of social housing assistance).

(3) In this paragraph “the insolvency provisions” means sections 39 to 50 of the 1996 Act (insolvency etc. of registered social landlord) and any other enactment, instrument or other document so far as it has effect under or otherwise in connection with those sections.

Moratorium – limitations on grant recovery

27. Section 148(1)(a) of the 2008 Act (effect of moratorium) has effect on and after the commencement date as if the reference to a direction under section 32(4) of that Act included a reference to a direction under section 27(2)(b) of the 1996 Act (as that section is saved by this Order).

Regulation; general

Control of payments etc, change of rules, amalgamation and dissolution

28.—(1) The control provisions continue to apply on and after the commencement date in relation to—

- (a) in the case of Part 1 of Schedule 1 to the 1996 Act, a gift or payment made, or benefit granted, by or to an English registered social landlord before the commencement date, and
- (b) in the case of paragraphs 9 to 13 of that Schedule—
 - (i) an application for consent made by an English registered social landlord before that date, or
 - (ii) an obligation to send a notice incurred by an English registered social landlord before that date under paragraph 9(2) or 11(2) of that Schedule.

(2) In their application by virtue of sub-paragraph (1), the control provisions have effect—

- (a) without any amendments or repeals of them brought into force by this Order,
- (b) as if the 2008 Order were not revoked,
- (c) as if references to registered social landlords or their registration—
 - (i) in relation to times, circumstances or purposes before the commencement date, related only to English registered social landlords, and
 - (ii) in relation to times, circumstances or purposes on and after the commencement date, were references to private registered providers of social housing or their registration, and
- (d) as if section 163(4) of the 2008 Act (industrial and provident society: restructuring) applied instead of paragraph 12(3) of Schedule 1 to the 1996 Act in relation to any new body or transferee mentioned in that paragraph.

(3) In this paragraph “the control provisions” means Part 1 of Schedule 1 to the 1996 Act or paragraphs 9 to 13 of that Schedule and any other enactment, instrument or other document so far as it has effect under or otherwise in connection with that Part or those paragraphs.

Removal of directors etc

29.—(1) Sub-paragraph (2) applies if—

- (a) the TSA has given (or is treated as having given) notice to an English registered social landlord before the commencement date under paragraph 4 of Schedule 1 to the 1996 Act that it intends to make an order under that paragraph, and
- (b) the period of 14 days mentioned in that paragraph has not ended before the commencement date or no such order has been made before that date.

(2) The notice is to be treated, on and after the commencement date, as a notice under section 267(1) of the 2008 Act (removal of officers).

(3) Accordingly, the relevant days before the commencement date are to be counted for the purposes of a notice period which has not ended before that date.

(4) Sub-paragraph (5) applies if, before the commencement date and in relation to an English registered social landlord—

- (a) a person has made an appeal under paragraph 4(5) of Schedule 1 to the 1996 Act, and
- (b) the appeal has not been finally decided or withdrawn.

(5) The appeal is to be treated, on and after the commencement date, as an appeal under section 268 of the 2008 Act (appeal against removal or suspension) against removal under section 266 of that Act (removal of officers).

(6) Sub-paragraph (7) applies if, immediately before the commencement date and in relation to an English registered social landlord, a person—

- (a) has a right of appeal under paragraph 4(5) of Schedule 1 to the 1996 Act, but
- (b) has not exercised that right.

(7) The right of appeal is to be treated, on and after the commencement date, as a right of appeal under section 268 of the 2008 Act against removal under section 266 of that Act.

Appointment of directors etc

30.—(1) Sub-paragraph (2) applies if—

- (a) the TSA has consulted (or is treated as having consulted) the Charity Commission before the commencement date under paragraph 6(2) of Schedule 1 to the 1996 Act with a view to appointing a new trustee or director of an English registered social landlord under that paragraph, and
- (b) no such appointment has been made under that paragraph before that date and nor has the TSA decided before that date not to make such an appointment.

(2) The consultation is to be treated, on and after the commencement date, as a consultation under section 269(6) of the 2008 Act (appointment of new officers) with a view to appointing a new trustee or director under that section.

(3) Sub-paragraph (4) applies if, before the commencement date, the TSA has appointed (or is treated as having appointed) a person under paragraph 6, 7 or 8 of Schedule 1 to the 1996 Act.

(4) That appointment (including any terms and conditions attaching to it) is, if in force immediately before the commencement date, to be treated on and after that date as an appointment made under section 269 of the 2008 Act.

Winding up

31.—(1) Sub-paragraph (2) applies if—

- (a) the TSA has presented (or is treated as having presented) a petition before the commencement date under paragraph 14 of Schedule 1 to the 1996 Act for the winding up of an English registered social landlord, and
- (b) the petition has not been finally decided or withdrawn before that date.

(2) The petition is to be treated, on and after the commencement date, as a petition under section 166 of the 2008 Act (winding up petition by regulator) in relation to the person in question.

Transfer of net assets on dissolution or winding up

32.—(1) Sub-paragraph (2) applies in relation to any transfers or other activities under paragraph 15 of Schedule 1 to the 1996 Act which are in progress immediately before the commencement date in relation to the dissolution or winding up of an English registered social landlord.

(2) Section 167 of the 2008 Act applies, on and after that date, in relation to the transfers or other activities concerned.

(3) Sub-paragraph (4) applies if the TSA has not, before the commencement date, disposed of the property of an English registered social landlord transferred to the TSA by virtue of paragraph 15 of Schedule 1 to the 1996 Act.

(4) Section 168(2) to (4) of the 2008 Act applies, on and after that date, in relation to the disposal of the property.

Requirements as to accounts and audit etc

33.—(1) The accounts and audit provisions continue to apply on and after the commencement date in relation to the accounts of an English registered social landlord where the period of account began before that date (whether or not the period ended before that date).

(2) In their application by virtue of sub-paragraph (1), the accounts and audit provisions have effect—

- (a) without any amendments or repeals of them brought into force by this Order,
- (b) as if the 2008 Order were not revoked, and
- (c) as if references to registered social landlords—
 - (i) in relation to times, circumstances or purposes before the commencement date, related only to English registered social landlords, and
 - (ii) in relation to times, circumstances or purposes on and after the commencement date, were references to private registered providers of social housing.

(3) In sub-paragraphs (1) and (2) “the accounts and audit provisions” means Part 3 (other than paragraph 19A) of Schedule 1 to the 1996 Act and any other enactment, instrument or other document so far as it has effect under or otherwise in connection with that Part.

(4) Section 143 of the 2008 Act applies to a person who has been an auditor or reporting accountant of an English registered social landlord as it applies to a person who is or has been an auditor or reporting accountant of a private registered provider of social housing.

Inquiries and audits under the 1996 Act

34.—(1) The inquiry provisions continue to apply on and after the commencement date in relation to inquiries into the affairs of English registered social landlords which, before the commencement date, were directed under paragraph 20 of Schedule 1 to that Act to be held (whether or not such inquiries or related audits have begun before that date or were completed before that date).

(2) In their application by virtue of sub-paragraph (1), the inquiry provisions have effect—

- (a) without any amendments or repeals of them brought into force by this Order,
- (b) as if the 2008 Order were not revoked, and
- (c) as if references to registered social landlords—
 - (i) in relation to times, circumstances or purposes before the commencement date, related only to English registered social landlords, and
 - (ii) in relation to times, circumstances or purposes on and after the commencement date, were references to private registered providers of social housing.

(3) In this paragraph “the inquiry provisions” means Part 4 (other than paragraphs 25(4) and (5) and 26(1) to (3)) of Schedule 1 to the 1996 Act and any other enactment, instrument or other document so far as it has effect under or otherwise in connection with that Part.

Inquiries and audits: pre-commencement date acts or omissions

35.—(1) The TSA may hold an inquiry under section 206 of the 2008 Act (inquiry), or an audit under section 210 of that Act (extraordinary audit), in relation to acts and omissions of a private registered provider of social housing which occurred (or are alleged to have occurred) before the commencement date if the person concerned was, at that time, an English registered social landlord.

(2) In conducting an inquiry under section 206 of the 2008 Act, the inquirer may consider acts and omissions of a subsidiary or associate of a private registered provider of social housing which occurred (or are alleged to have occurred) before the commencement date if the subsidiary or associate was, at that time, a subsidiary or associate of an English registered social landlord.

Disqualified persons

36.—(1) A person who, immediately before the commencement date, is disqualified from being an officer of an English registered social landlord by virtue of paragraph 25 of Schedule 1 to the 1996 Act is to be treated, on and after that date, as disqualified under section 262 of the 2008 Act from acting as an officer of a private registered provider of social housing.

(2) A person who, on or after the commencement date, is disqualified from being an officer of a private registered provider of social housing by virtue of paragraph 25 of Schedule 1 to the 1996 Act as saved by paragraph 34 above is to be treated, as from the time of disqualification, as disqualified under section 262 of the 2008 Act from acting as an officer of a private registered provider of social housing and as disqualified under paragraph 25 of Schedule 1 to the 1996 Act from acting as an officer of a registered social landlord.

Miscellaneous

Audit Commission studies

37.—(1) Sections 40, 41 and 43 of the Audit Commission Act 1998(a) (studies relating to registered social landlords) continue to have effect on and after the commencement date in relation to a programme of studies—

- (a) agreed, or directed to be carried out, before the commencement date under section 40 of that Act, but
- (b) not completed before that date.

(2) In their application by virtue of sub-paragraph (1), sections 40, 41 and 43 of the Audit Commission Act 1998 have effect—

- (a) without any amendments or repeals of them brought into force by this Order or made by an order under section 114 of the 2008 Act,
- (b) as if the 2008 Order were not revoked, and
- (c) as if references to registered social landlords were, in relation to times, circumstances or purposes on and after the commencement date, references to private registered providers of social housing.

(3) References in this paragraph to sections 40, 41 and 43 of the Audit Commission Act 1998 include references to any other enactment, instrument or other document so far as it has effect under or otherwise in connection with those sections.

Audit Commission inspection powers

38.—(1) Sections 41A, 41B and 43 of the Audit Commission Act 1998(b) (inspections of registered social landlords) continue to have effect on and after the commencement date in relation

(a) 1998 c.18.

(b) 1998 c.18. Sections 41A and 41B were inserted by section 109 of the Local Government Act 2003.

to an inspection in relation to an English registered social landlord which began before that date but in relation to which no report has been issued before that date.

(2) In their application by virtue of sub-paragraph (1), sections 41A, 41B and 43 of the Audit Commission Act 1998 have effect—

- (a) without any amendments or repeals of them brought into force by this Order,
- (b) as if the 2008 Order were not revoked, and
- (c) as if references to registered social landlords were, in relation to times, circumstances or purposes on and after the commencement date, references to private registered providers of social housing.

(3) References in this paragraph to section 41A, 41B or 43 of the Audit Commission Act 1998 include references to any other enactment, instrument or other document so far as it has effect under or otherwise in connection with those sections.

Directions to the Homes and Communities Agency

39.—(1) Sub-paragraph (2) applies in relation to a direction not to make a grant which—

- (a) was given before the commencement date by the TSA to the HCA under article 4 of the 2008 Order, and
- (b) was not withdrawn before that date.

(2) The direction has effect, on and after the commencement date and subject to section 106(4) of the 2008 Act (direction to the HCA), as if it were a direction under section 106 not to give any financial assistance.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force certain provisions of Parts 1 and 2 of the Housing and Regeneration Act 2008 (“the Act”) on 1st April 2010.

As regards Part 1 and 2 of the Act, the provisions commenced are principally those relating to social housing assistance and the new regulatory regime for private registered providers of social housing (this term is inserted into the Act by the Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010). The regulator is the Office of Tenants and Social Landlords, established under Part 2 of the Act, and known as the Tenant Services Authority (TSA). The Order also makes transitional and saving provisions.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1 to 3 and Schedule 1	08.09.2008	2008/2358
Section 4 (partially)	08.09.2008 and 01.12.2008	2008/2358 and 2008/3068
Sections 5 to 18 and Schedules 2 to 4	01.12.2008	2008/3068
Section 19 (partially)	01.12.2008	2008/3068
Sections 20 to 30	01.12.2008	2008/3068
Section 32 (partially)	01.04.2009	2009/803
Section 33 (partially)	01.04.2009	2009/803
Section 34	01.04.2009	2009/803
Section 36	01.04.2009	2009/803
Section 37	08.09.2008	2008/2358
Sections 38 to 43	01.12.2008	2008/3068
Section 44	08.09.2008	2008/2358

Section 45	01.12.2008	2008/3068
Sections 46 and 47	08.09.2008	2008/2358
Section 48	01.12.2008	2008/3068
Section 49	08.09.2008	2008/2358
Section 50 and Schedule 5	08.09.2008, 01.12.2008 and 01.04.2009	2008/2358, 2008/3068 and 2009/803
Section 51 and Schedules 6 and 7 (partially)	08.09.2008	2008/2358
Sections 52 to 55	08.09.2008	2008/2358
Section 56 and Schedule 8 (partially)	08.09.2008, 01.12.2008 and 01.04.2009	2008/2358, 2008/3068 and 2009/803
Section 57 (partially)	08.09.2008 and 01.12.2008	2008/2358 and 2008/3068
Section 58 (partially)	08.09.2008, 01.12.2008 and 01.04.09	2008/2358, 2008/3068 and 2009/803
Section 59	08.09.2008	2008/2358
Section 64 (partially)	16.02.2009	2009/363
Sections 65 to 67 and Schedules 6 and 7 (partially)	08.09.2008	2008/2358
Sections 68 to 71 (partially)	08.09.2008	2008/2358
Section 72	08.09.2008	2008/2358
Sections 73 to 80 (partially)	08.09.2008	2008/2358
Section 81	08.09.2008	2008/2358
Sections 82 to 85	08.09.2008	2008/2358
Section 86 (partially)	08.09.2008	2008/2358
Sections 87 to 92	08.09.2008	2008/2358
Section 93	08.09.2008 and 01.04.2009	2008/2358 and 2009/803
Section 95 (partially)	08.09.2008	2008/2358
Sections 96 to 98 (partially)	08.09.2008	2008/2358
Sections 99 to 104	08.09.2008	2008/2358
Section 105	08.09.2008	2008/2358
Section 112 (partially)	08.09.2008	2008/2358
Section 113 (partially)	08.09.2008	2008/2358
Section 114	08.09.2008 and 07.09.09	2008/2358 2009/2096
Section 116 (partially)	08.09.2008	2008/2358
Section 117 (partially)	08.09.2008	2008/2358
Section 119 (partially)	08.09.2008	2008/2358
Section 127 (partially)	08.09.2008	2008/2358
Section 131 (partially)	08.09.2008	2008/2358
Section 144 (partially)	01.04.2009	2009/803
Section 145 (partially)	01.04.2009	2009/803
Section 174 (partially)	08.09.2008	2008/2358
Sections 192 to 197	08.09.2008	2008/2358
Section 198 (partially)	08.09.2008	2008/2358
Section 202 (partially)	08.09.2008	2008/2358
Section 212 (partially)	08.09.2008	2008/2358
Section 214 (partially)	08.09.2008	2008/2358
Section 215 (partially)	08.09.2008	2008/2358
Section 216	08.09.2008	2008/2358
Section 228 (partially)	01.04.2009	2009/803

Section 234 (partially)	01.04.2009	2009/803
Section 240 (partially)	01.04.2009	2009/803
Section 244 (partially)	01.04.2009	2009/803
Section 275 (partially)	08.09.2008	2008/2358
Section 276 (partially)	08.09.2008	2008/2358
Section 277 and Schedule 9 (partially)	08.09.2008, 01.12.2008 and 01.04.2009	2008/2358, 2008/3068 and 2009/803
Sections 295 and 296	01.12.2008	2008/3068
Section 297	01.01.2009	2008/3068
Section 298	01.12.2008 and 01.01.2009	2008/3068
Section 299 and Schedule 11 (partially)	01.12.2008 and 20.05.2009	2008/3068 and 2009/1261
Section 300	07.09.09	2009/2096
Sections 301 and 302	01.12.2008 and 07.09.09	2008/3068 and 2009/2096
303 and Schedule 12 (partially)	01.12.2008	2008/3068
Section 308	01.12.2008	2008/3068
Section 309	01.12.2008 and 06.04.2009	2008/2068 and 2009/803
Section 311 and Schedule 14	01.12.2008	2008/3068
Section 314 and Schedule 15 (partially)	02.03.09	2009/415
Section 315 (partially)	01.12.2008	2008/3068
Section 316	07.09.09	2009/2096
Section 317	22.09.2008	2008/2358
Section 321 and Schedule 16 (partially)	22.09.2008, 01.12.08, 02.03.09, 01.04.2009 20.05.2009 and 07.09.09	2008/2358, 2008/3068, 2009/415, 2009/803, 2009/1261 and 2009/2096

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