



Housing (Wales) Measure 2011

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PART 1

SUSPENSION OF THE RIGHT TO BUY AND RELATED RIGHTS

CHAPTER 2

VARIATION OF DIRECTION SUSPENDING THE RIGHT TO BUY AND RELATED RIGHTS

7 **Meaning of “enlarging variation” and “reducing variation” etc**

- (1) For the purposes of this Chapter, an “enlarging variation” is a variation of a direction issued under this Part which makes either or both of the following changes (and no others)—
- (a) alters the direction so that it applies to an area to which it did not previously apply;
 - (b) alters the direction so that it applies to a type or types of relevant dwelling-house to which it did not previously apply;
- and “enlarging elements” must be construed accordingly.
- (2) For the purposes of this Chapter, a “reducing variation” is a variation of a direction issued under this Part which makes either or both of the following changes (and no others)—
- (a) alters the direction so that it no longer applies to an area to which it did previously apply;
 - (b) alters the direction so that it no longer applies to a type or types of relevant dwelling-house to which it did previously apply;
- and “reducing elements” must be construed accordingly.

8 Enlarging variation: power to apply

- (1) A local housing authority may apply to the Welsh Ministers for an enlarging variation of a direction issued under this Part if—
 - (a) the direction was issued in response to an application made by the authority;
 - (b) the application for a variation is made at least six months before the date on which the direction is to cease to have effect;
 - (c) within the period of six months preceding the application, the authority has completed a consultation exercise in accordance with section 9, and
 - (d) in the light of that exercise, and having considered any other relevant information, the authority concludes that, in relation to the enlarging elements of the variation, the condition described in subsection (2) exists.
- (2) The condition is that—
 - (a) the demand for social housing falling within the enlarging elements of the variation substantially exceeds its supply or is likely to do so, and
 - (b) that imbalance between supply and demand is likely to increase as a result of the exercise of the right to buy and related rights.

9 Enlarging variation: consultation

- (1) This section provides for the consultation exercise that a local housing authority must carry out before it may apply to the Welsh Ministers for an enlarging variation of a direction issued under this Part.
- (2) The consultation exercise must seek views on whether there is a need to apply for such a variation.
- (3) The persons to be consulted are—
 - (a) each social housing provider—
 - (i) which appears to the authority to be a landlord of a dwelling-house situated in the authority's area (but the authority need not consult itself), and
 - (ii) which the authority considers would be affected if its application for an enlarging variation of a direction is granted;
 - (b) any body or bodies appearing to the authority to represent the interests of tenants of dwelling-houses within the authority's area where—
 - (i) the landlords of those dwelling-houses are social housing providers, and
 - (ii) the authority considers that the tenants of those dwelling-houses would be affected if its application for an enlarging variation of a direction is granted;
 - (c) any other local housing authority whose area is adjacent to the area to which it is proposed that the enlarging elements of the direction are to apply; and
 - (d) such other persons as the authority considers appropriate.

10 Application for enlarging variation

- (1) This section sets out the requirements to be met by a local housing authority's application to the Welsh Ministers for an enlarging variation of a direction issued under this Part.

- (2) The application must—
- (a) include a draft of the direction (as it would be varied if the application were granted) which, if it were included in an application for a direction under section 3, would comply with the requirements of section 3(2)(a);
 - (b) explain why the authority has concluded that the condition described in section 8(2) exists;
 - (c) explain why the authority is of the opinion that the variation is an appropriate response to its having concluded that the condition described in section 8(2) exists;
 - (d) explain what other action the authority proposes to take to reduce the imbalance between the demand for social housing and its supply within its area during the period for which the direction (as varied) is to have effect; and
 - (e) describe what the authority has done to discharge its obligation to carry out a consultation exercise under section 9.

11 Consideration by the Welsh Ministers of an application for an enlarging variation

- (1) If the Welsh Ministers are of the opinion that a local housing authority's application for an enlarging variation meets the requirements of section 10, they must consider the application.
- (2) If the Welsh Ministers are of the opinion that an application does not meet the requirements of section 10 they must refuse to consider it unless, in their opinion, the failure to comply with the requirements is immaterial or insignificant in which case they may consider the application.
- (3) The Welsh Ministers must notify an authority in writing if they—
 - (a) are obliged under subsection (1) to consider an application for an enlarging variation;
 - (b) decide under subsection (2) to consider such an application, or
 - (c) are obliged under subsection (2) to refuse to consider an application.
- (4) The day after that on which a notice was sent under subsection (3)(a) or (b) is to be treated as the date on which the Welsh Ministers decided to consider the application.
- (5) If, before the Welsh Ministers have decided to consider an application, a local housing authority provides further information under section 27, it is to be treated as if it formed part of the application.

12 Decision of the Welsh Ministers on the application

- (1) This section applies where the Welsh Ministers are considering a local housing authority's application for an enlarging variation in accordance with section 11(1) or (2).
- (2) The Welsh Ministers may reject the application (without considering whether subsection (2) requires them to grant it) if they are of the opinion that—
 - (a) the authority has failed to comply with a requirement imposed under section 27 in relation to the application, or
 - (b) where the authority is required to have a strategy relating to housing under section 87(1) of the Local Government Act 2003, the strategy, in so far as it

relates to the imbalance between demand for and supply of social housing in the authority's area, is inadequate.

- (3) The Welsh Ministers must not make a decision under subsection (2)(b) unless they have considered—
 - (a) any statement that the authority is required to prepare under section 87(2) of the Local Government Act 2003, and
 - (b) any other information which the Welsh Ministers consider relevant.
- (4) The Welsh Ministers must grant the application if—
 - (a) they agree with the authority's opinion as to why the condition described in section 8(2) exists;
 - (b) they agree with the authority's opinion that the variation is an appropriate response to the authority having concluded that the condition exists;
 - (c) they are satisfied that the authority's proposals included in its application in accordance with section 10(2)(d) are likely to contribute to a reduction in the imbalance between the demand for social housing and its supply within the authority's area, and
 - (d) they are satisfied that, before making the application, the authority complied with its obligation to carry out a consultation exercise under section 9.
- (5) If any of paragraphs (a) to (d) of subsection (4) are not met, the Welsh Ministers must reject the application.
- (6) The Welsh Ministers must grant or reject an application in accordance with this section within six months beginning with the date on which they decided to consider the application (see section 11(4)).
- (7) The validity of the Welsh Ministers' decision is not affected by a failure to comply with subsection (6).

13 Issue of direction as varied to include enlarging elements

- (1) Where the Welsh Ministers grant a local housing authority's application under section 12, they must issue in writing a varied direction which—
 - (a) clearly identifies the area to which it applies;
 - (b) states whether or not the direction applies to every relevant dwelling-house within that area;
 - (c) if the direction does not apply to every relevant dwelling-house within that area, clearly describes the type or types of relevant dwelling-house to which it does apply;
 - (d) states the period for which it is to have effect.
- (2) The Welsh Ministers must not issue a direction under this section which differs in any material respect from the draft of the direction included in the local housing authority's application in accordance with section 10(2)(a).

14 Reducing variation: power to apply

- (1) A local housing authority may apply to the Welsh Ministers for a reducing variation of a direction issued under this Part if—
 - (a) the direction was issued in response to an application made by the authority, and

(b) the authority concludes that the condition described in subsection (2) exists.

(2) The condition is that either—

- (a) the demand for social housing falling within the reducing elements of the variation does not substantially exceed its supply or is not likely to do so, or
- (b) even if demand does substantially exceed supply, or is likely to do so, that imbalance between supply and demand is not likely to increase as a result of the exercise of the right to buy and related rights.

15 Application for reducing variation

(1) This section sets out the requirements to be met by a local housing authority's application to the Welsh Ministers for a reducing variation of a direction issued under this Part.

(2) The application must—

- (a) include a draft of the direction (as it would be varied if the application were granted) which, if it were included in an application for a direction under section 3, would comply with the requirements of section 3(2)(a), and
- (b) explain why the authority has concluded that the condition described in section 14(2) exists.

16 Decision of the Welsh Ministers on the application

(1) The Welsh Ministers may reject a local housing authority's application for a reducing variation (without considering whether subsection (2) requires them to grant it) if they are of the opinion that the authority has failed to comply with a requirement imposed under section 27 in relation to the application.

(2) The Welsh Ministers must grant the application if they agree with the authority's opinion as to why the condition described in section 14(2) exists and, if the Welsh Ministers do not so agree, they must reject the application.

17 Issue of direction as varied to include reducing elements

(1) Where the Welsh Ministers grant a local housing authority's application under section 16, they must issue in writing a varied direction which—

- (a) clearly identifies the area to which it applies;
- (b) states whether or not the direction applies to every relevant dwelling-house within that area;
- (c) if the direction does not apply to every relevant dwelling-house within that area, clearly describes the type or types of relevant dwelling-house to which it does apply;
- (d) states the period for which it is to have effect.

(2) The Welsh Ministers must not issue a direction under this section which differs in any material respect from the draft of the direction included in the local housing authority's application in accordance with section 15(2)(a).