



# Housing (Wales) Measure 2011

2011 nawm 5

## PART 2

### REGISTERED SOCIAL LANDLORDS

#### CHAPTER 3

#### REGULATION

##### *Survey and examination*

#### **42 Failure to give notice to occupiers**

- (1) Amend section 37 of the Housing Act 1996 (power to enter premises to carry out survey and examination) as follows.
- (2) In subsection (3)—
  - (a) the second sentence of the existing provision becomes subsection (3A),
  - (b) in subsection (3A), for “who fails to do so” substitute “who fails, without reasonable excuse, to give the required notice in relation to premises in Wales”, and
  - (c) after subsection (3A) insert—

“(3B) A landlord who fails to give the required notice in relation to premises in England commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”
- (3) In subsection (4), for “(3)” substitute “(3A) or (3B)”.

*Inspection***43 Inspection: overview and application**

After Part 3 of Schedule 1 to the Housing Act 1996 insert—

**“PART 3A****INSPECTION***Overview and application*

- 19B (1) This Part provides for the inspection of a registered social landlord’s affairs.
- (2) But this Part does not apply in relation to affairs relating only to the provision of housing in England.”

**44 Inspection**

After paragraph 19B of Schedule 1 to the Housing Act 1996 insert—

*“Inspection*

- 19C (1) The Welsh Ministers—
- (a) may inspect a registered social landlord’s affairs, or
  - (b) may arrange for another person to do so.
- (2) An inspection may be general or specific.
- (3) If the Welsh Ministers arrange for a person to carry out an inspection, they may direct that person to discontinue it.
- (4) If the Welsh Ministers arrange for a person to carry out an inspection, the arrangements may include (among other things) provision about payments.”

**45 Inspection: supplemental**

After paragraph 19C of Schedule 1 to the Housing Act 1996 insert—

*“Inspection: supplemental*

- 19D (1) The person carrying out the inspection must produce a written report.
- (2) The Welsh Ministers—
- (a) must give the registered social landlord a copy of the report, and
  - (b) may publish the report and related information.
- (3) If the Welsh Ministers have arranged for a person to carry out the inspection, that person may publish the report and related information (whether or not the Welsh Ministers have done so).

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

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- (4) If a registered social landlord is inspected, the Welsh Ministers may charge a fee.
- (5) A registered social landlord must pay any fee charged to—
  - (a) the person with whom the Welsh Ministers have made an arrangement to carry out an inspection (if any), or
  - (b) the Welsh Ministers.
- (6) The Welsh Ministers may direct a registered social landlord to pay the fee to one of those persons.
- (7) If a fee is paid to a person other than the Welsh Ministers, that person must notify the Welsh Ministers about the payment.”

#### **46 Inspector’s powers to require provision of documents or information**

After paragraph 19D of Schedule 1 to the Housing Act 1996 insert—

*“Inspector’s powers to require provision of documents or information*

- 19E (1) An inspector may by notice require a person to provide specified documents or information.
- (2) 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.
  - (3) The inspector may copy or record documents or information provided.
  - (4) Failure to comply with a requirement without reasonable excuse is an offence.
  - (5) Intentionally altering, suppressing or destroying a document or information to which a requirement relates is an offence.
  - (6) If a person fails to comply with a requirement the High Court may, on an application by the inspector, make an order for the purpose of remedying the failure.
  - (7) In this paragraph “inspector” means—
    - (a) the Welsh Ministers, or
    - (b) a person authorised in writing by the Welsh Ministers to exercise the powers under this paragraph for the purpose of an inspection under paragraph 19C.”

#### **47 Inspector’s powers to require provision of documents or information: supplemental**

After paragraph 19E of Schedule 1 to the Housing Act 1996 insert—

*“Inspector’s powers to require provision of documents or information: supplemental*

- 19F (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 social landlord to whose affairs or activities the document or information relates,
  - (b) a subsidiary of that landlord, or
  - (c) an associate of that landlord.
- (3) A person guilty of an offence under paragraph 19E(4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A person guilty of an offence under paragraph 19E(5) 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 paragraph 19E(4) or (5) may be brought only by or with the consent of—
- (a) the Welsh Ministers, or
  - (b) the Director of Public Prosecutions.”

**48 Inspector’s powers of entry and inspection**

After paragraph 19F of Schedule 1 to the Housing Act 1996 insert—

*“Inspector’s powers of entry and inspection*

- 19G (1) An inspector may at any reasonable time—
- (a) enter premises occupied by the registered social landlord which is being inspected, and
  - (b) inspect, copy or take away documents found there.
- (2) But the inspector may not enter residential accommodation (whether the residential accommodation is the whole of, or only part of, premises occupied by the registered social landlord).
- (3) The reference to documents found on the premises includes (but is not limited to)—
- (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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*Status: This is the original version (as it was originally enacted).*

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- (4) The power to inspect documents includes (but is not limited to) the power to inspect any computer or electronic storage device on which they have been created or stored.
- (5) An inspector may require any person on the premises to provide such facilities or assistance as the inspector reasonably requests.
- (6) For the purposes of sub-paragraphs (3) and (4) an inspector may require any person having charge of a computer to provide any assistance that the inspector reasonably requests.
- (7) It is an offence for a person without reasonable excuse to obstruct an inspector exercising the powers conferred by sub-paragraphs (1) to (6).
- (8) A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) Proceedings for an offence may be brought only by or with the consent of—
  - (a) the Welsh Ministers, or
  - (b) the Director of Public Prosecutions.
- (10) In this paragraph—
  - “inspector” means—
    - (a) the Welsh Ministers, or
    - (b) a person authorised in writing by the Welsh Ministers to exercise the powers under this paragraph for the purpose of an inspection under paragraph 19C;
  - “residential accommodation” means accommodation of any description (including, but not limited to, a dwelling or residential accommodation in a hostel) that is occupied by one or more persons as a permanent or temporary place of residence (whether or not it is also occupied by any person for any other purpose).”

### *Inquiry*

#### **49 Extraordinary audit for purposes of inquiry**

In paragraph 22 of Schedule 1 to the Housing Act 1996 (extraordinary audit for purposes of inquiry), in sub-paragraph (4), for “the Welsh Ministers” substitute “the registered social landlord in respect of which the inquiry is being conducted”.