



Housing (Wales) Measure 2011

2011 nawm 5

PART 2

REGISTERED SOCIAL LANDLORDS

CHAPTER 4

ENFORCEMENT

Compensation

64 Grounds for award

After section 50N of the Housing Act 1996 insert—

“Compensation

“ 50O Grounds for award

- (1) The Welsh Ministers may require a registered social landlord to pay compensation if they are 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 social landlord has failed to meet a standard under section 33A.
- (3) Case 2 is where the registered social landlord has given an undertaking under section 6A and failed to comply with it.”

65 **Persons to whom compensation may be awarded**

After section 50O of the Housing Act 1996 insert—

“50P Persons to whom compensation may be awarded

Compensation in respect of a failure may be awarded to one or more persons who have suffered as a result of the failure.”

66 **Award**

After section 50P of the Housing Act 1996 insert—

“50Q Award

- (1) Compensation is awarded by the Welsh Ministers giving notice (a “compensation notice”) to—
 - (a) the registered social landlord, 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) a period within which it must be paid, and
 - (e) any interest or additional compensation which, by virtue of section 50U(2), is payable in the event of late payment.
- (3) The notice may require the registered social landlord to publish information about the compensation award in a specified manner.
- (4) The notice must explain the effect of sections 50U(1) and (3) and 50V.”

67 **Impact**

After section 50Q of the Housing Act 1996 insert—

“50R Impact

- (1) This section applies when the Welsh Ministers are considering—
 - (a) whether to award compensation, or
 - (b) the amount of compensation to award.
- (2) The Welsh Ministers must take account of any information available to them about the financial situation of the registered social landlord.
- (3) The Welsh Ministers must consider the likely impact of the compensation on the registered social landlord’s ability to provide services.
- (4) In particular, the Welsh Ministers must aim to avoid—
 - (a) jeopardising the financial viability of the registered social landlord,

- (b) preventing the registered social landlord from honouring financial commitments, or
- (c) preventing the registered social landlord from taking action to remedy the matters on the grounds of which the compensation might be awarded.”

68 Warning

After section 50R of the Housing Act 1996 insert—

“50S Warning

- (1) Before giving a compensation notice to a registered social landlord the Welsh Ministers must give the landlord a notice (a “pre-compensation warning”)—
 - (a) specifying grounds on which the Welsh Ministers think compensation could be awarded,
 - (b) warning the landlord that the Welsh Ministers are considering awarding compensation to a specified person,
 - (c) including any indication that the Welsh Ministers are able to give of the likely amount of any compensation, and
 - (d) explaining the effect of sections 50T, 50U(1) and (3) and 50V.
- (2) Before giving a pre-compensation warning the Welsh Ministers must consult the Public Services Ombudsman for Wales.
- (3) The Welsh Ministers must send a copy of a pre-compensation warning to any person they think appropriate (having regard, in particular, to any person who provided information as a result of which the pre-compensation warning is given).
- (4) A pre-compensation warning must—
 - (a) refer to section 6A, and
 - (b) indicate whether or to what extent the Welsh Ministers would accept a voluntary undertaking instead of, or in mitigation of, awarding compensation.
- (5) A pre-compensation warning may be combined with notice under one or more of the following—
 - (a) section 50K,
 - (b) paragraphs 15C, 15E and 15G of Schedule 1.”

69 Representations

After section 50S of the Housing Act 1996 insert—

“50T Representations

- (1) A pre-compensation warning must specify a period during which the registered social landlord may make representations to the Welsh Ministers.
- (2) The period must—
 - (a) be a period of at least 28 days, and

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

- (b) begin with the date on which the registered social landlord 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 Welsh Ministers must—
 - (a) consider any representations made, and
 - (b) decide whether to award compensation.”

70 Enforcement

After section 50T of the Housing Act 1996 insert—

“50U Enforcement

- (1) Compensation is to be treated as a debt owed to the person to whom it is awarded.
- (2) The Welsh Ministers may —
 - (a) award interest on compensation not paid during the period specified under section 50Q(2)(d);
 - (b) award additional compensation where compensation is not paid during that period.
- (3) Interest and additional compensation are to be treated as compensation.”

71 Appeal

After section 50U of the Housing Act 1996 insert—

“50V Appeal

A registered social landlord who is given a compensation notice may appeal to the High Court against—

- (a) the award of compensation,
- (b) its amount, or
- (c) both.”