



Housing (Wales) Measure 2011

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PART 1

SUSPENSION OF THE RIGHT TO BUY AND RELATED RIGHTS

CHAPTER 1

DIRECTIONS SUSPENDING THE RIGHT TO BUY AND RELATED RIGHTS

1 Power to apply for direction suspending the right to buy and related rights

- (1) A local housing authority may apply to the Welsh Ministers for a direction suspending the right to buy and related rights in its area for a period of up to five years if—
 - (a) within the period of six months preceding the application, the authority has completed a consultation exercise in accordance with section 2, and
 - (b) in the light of that exercise, and having considered any other relevant information, the authority concludes that the condition described in subsection (2) exists.
- (2) The condition (referred to in this Part as the “housing pressure condition”) is that—
 - (a) within the local housing authority’s area, the demand for social housing 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.
- (3) For the purposes of this Part, the following are rights related to the right to buy—
 - (a) the right to buy as extended under section 171 of the Housing Act 1985;
 - (b) the preserved right to buy under section 171A of the Housing Act 1985;
 - (c) the right to acquire under section 16 of the Housing Act 1996;
 - (d) the right to acquire as extended under section 16A of the Housing Act 1996.
- (4) A local housing authority may conclude that paragraph (a) of subsection (2) is met—
 - (a) in relation to all social housing in its area;

- (b) in relation to all social housing in a certain part or parts of its area;
 - (c) in relation to a certain type or types of social housing (whether throughout its area or in a certain part or parts of its area).
- (5) For the purposes of this Part, a type of social housing may be identified by reference to any, or any combination of, the following—
- (a) special needs of tenants;
 - (b) description of dwelling-house;
 - (c) type of social housing provider (which may include a particular provider).

2 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 a direction suspending the right to buy and related rights.
- (2) The consultation exercise must seek views on whether there is a need for the authority to apply for such a direction.
- (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 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 a direction is granted;
 - (c) any other local housing authority whose area is adjacent to the area to which it is proposed that the direction is to apply, and
 - (d) such other persons as the authority considers appropriate.

3 Application for direction suspending the right to buy and related rights

- (1) This section sets out the requirements to be met by a local housing authority’s application to the Welsh Ministers for a direction suspending the right to buy and related rights.
- (2) The application must—
- (a) include a draft of the direction which—
 - (i) clearly identifies the area to which it is to apply (whether that is the whole of the authority’s area or one or more parts of its area);
 - (ii) states whether or not the direction is to apply to every relevant dwelling-house within that area;
 - (iii) if the direction is not to apply to every relevant dwelling-house within that area, clearly describes the type or types of relevant dwelling-house to which it is to apply;

- (iv) states the period for which it is to have effect (which must be no longer than five years from the date on which, if the application were granted, it would be issued);
- (b) explain why the authority has concluded that the housing pressure condition exists;
- (c) explain why the authority is of the opinion that the direction is an appropriate response to its having concluded that the housing pressure condition 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 is to have effect, and
- (e) describe what the authority has done to discharge its obligation to carry out a consultation exercise under section 2.

4 Consideration by the Welsh Ministers of an application

- (1) If the Welsh Ministers are of the opinion that a local housing authority's application for a direction suspending the right to buy and related rights meets the requirements of section 3, they must consider the application.
- (2) If the Welsh Ministers are of the opinion that an application does not meet the requirements of section 3 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 a direction suspending the right to buy and related rights made by the authority;
 - (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.

5 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 a direction suspending the right to buy and related rights in accordance with section 4(1) or (2).
- (2) The Welsh Ministers may reject the application (without considering whether subsection (4) 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 any 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 conclusion as to why the housing pressure condition exists;
 - (b) they agree with the authority's opinion that the direction is an appropriate response to the authority having concluded that the housing pressure condition exists;
 - (c) they are satisfied that the authority's proposals included in its application in accordance with section 3(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 2.
- (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 4(4)).
- (7) The validity of the Welsh Ministers' decision is not affected by a failure to comply with subsection (6).

6 Issue of direction

- (1) Where the Welsh Ministers grant a local housing authority's application under section 5, they must issue in writing a direction which—
- (a) clearly identifies the area to which it applies (whether that is the whole of the authority's area or one or more parts of its area);
 - (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 (which must be no longer than five years from the date on which it is issued).
- (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 3(2)(a).

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).

CHAPTER 3**EXTENSION OF DIRECTION SUSPENDING
THE RIGHT TO BUY AND RELATED RIGHTS****18 Extension application: power to apply**

- (1) A local housing authority may apply to the Welsh Ministers for an extension of the period for which a direction issued under this Part is to have effect if—
 - (a) within the period of six months preceding the application, the authority has completed a consultation exercise in accordance with section 19, and
 - (b) in the light of that exercise, and having considered any other relevant information, the authority concludes that the housing pressure condition continues to exist.
- (2) A local housing authority may apply for the extension of a direction which has already been extended but an extended direction may not have effect beyond a period of ten years from the date on which the direction was issued under section 6.

19 Extension application: consultation

- (1) This section provides for the consultation exercise that a local housing authority must carry out before it may make an application to the Welsh Ministers for an extension of the period for which a direction issued under this Part is to have effect.

- (2) The consultation exercise must seek views on whether there is a need to apply for an extension of the period for which the direction is to have effect.
- (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 extension 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 extension 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 extended direction is to apply, and
 - (d) such other persons as the authority considers appropriate.

20 Application for extension

- (1) This section sets out the requirements to be met by a local housing authority’s application to the Welsh Ministers for an extension of a direction issued under this Part.
- (2) The application must—
- (a) explain why the authority has concluded that the housing pressure condition exists;
 - (b) explain why the authority is of the opinion that an extension of the period for which a direction is to have effect would be an appropriate response to its having concluded that the housing pressure condition exists;
 - (c) explain what other action the authority has taken to reduce the imbalance between the demand for social housing and its supply within the authority’s area since the direction was issued under section 6;
 - (d) explain what other action the authority proposes to take to reduce the imbalance between the demand for social housing and its supply within the authority’s area during the proposed period of extension;
 - (e) describe what the authority has done to discharge its obligation to consult under section 19, and
 - (f) state the proposed period of extension (which must not be more than five years from the date on which, but for this Chapter, the direction would have ceased to have effect).

21 Decision of the Welsh Ministers on the application

- (1) The Welsh Ministers may reject a local housing authority’s application for an extension of the period for which a direction issued under this Part is to have effect (without considering whether subsection (3) requires them to grant it) if the Welsh Ministers 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.
- (2) The Welsh Ministers must not make a decision under subsection (1)(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.
- (3) The Welsh Ministers must grant the application if—
- (a) they agree with the authority's opinion as to why the housing pressure condition exists;
 - (b) they agree with the authority's opinion that the proposed extension of the period for which the direction is to have effect is an appropriate response to the authority having concluded that the housing pressure condition exists;
 - (c) they are satisfied that, before making the application, the authority complied with their obligation to carry out a consultation exercise under section 19;
 - (d) they are satisfied that the action taken by the authority to reduce the imbalance between the demand for social housing and its supply since the direction was issued under section 6 has been adequate, and
 - (e) they are satisfied that the authority's proposals included in its application in accordance with section 20(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.
- (4) If the Welsh Ministers are not satisfied that the action taken by the authority to reduce the imbalance between the demand for social housing and its supply since the direction was issued under section 6 has been adequate, they may refuse the application.
- (5) If any of paragraphs (a) to (c) or (e) of subsection (3) are not met, the Welsh Ministers must reject the application.

22 Issue of direction as extended

- (1) Where the Welsh Ministers grant a local housing authority's application under section 21, they must issue in writing an altered direction which—
- (a) states the date on which it is to cease to have effect (being the date specified in the authority's application under section 20(2)(f)), and
 - (b) in all other respects is identical to the direction in respect of which the application was made (the "replaced direction").
- (2) A direction issued under this section has effect as from the date on which the replaced direction ceases to have effect.

CHAPTER 4

REVOCATION OF DIRECTION SUSPENDING THE RIGHT TO BUY AND RELATED RIGHTS

23 Revocation of direction: power to apply

- (1) A local housing authority may apply to the Welsh Ministers for the revocation of a direction issued under this Part if the authority concludes that the condition described in subsection (2) exists.
- (2) The condition is that either—
 - (a) the demand for social housing to which the direction relates 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.

24 Application for revocation

A local housing authority's application to the Welsh Ministers for revocation of a direction issued under this Part must be in writing and must explain why the authority has concluded that the condition described in section 23(2) exists.

25 Decision of the Welsh Ministers on the application

- (1) The Welsh Ministers may reject a local housing authority's application under section 23 (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 conclusion as to why the condition described in section 23(2) exists.
- (3) If the Welsh Ministers grant the application, they must notify the local housing authority in writing of that fact and the direction ceases to have effect on the date on which such notice is given.

CHAPTER 5

APPLICATIONS: GENERAL PROVISIONS

26 Withdrawal of application

At any time before the Welsh Ministers have made a decision on a local housing authority's application for a direction, or for the revocation of a direction, under this Part, the authority which made the application may by notice in writing withdraw it.

27 Provision of further information

- (1) The Welsh Ministers may require a local housing authority to provide further information in addition to that provided in an application for a direction, or for the revocation of a direction, under this Part.
- (2) The power under subsection (1) is exercisable if the Welsh Ministers reasonably consider that the further information is required in order for them to decide whether to consider the authority's application or to determine the authority's application.

28 Publication of directions

- (1) As soon as reasonably practicable after the issue of a direction under this Part, the local housing authority which applied for the direction must publish it in whatever manner it thinks appropriate.
- (2) The authority must also take other reasonable steps to bring a direction, or the revocation of a direction, issued under this Part to the attention of persons likely to be affected by it.

29 Restriction on repeat applications

- (1) Subsection (2) applies where the Welsh Ministers have refused to grant a local housing authority's application for a direction under this Part.
- (2) Where this subsection applies, the local housing authority which made the application must not, during the period of two years beginning with the date of refusal, make an application for a direction that is substantially the same as the direction the application for which was refused.
- (3) Subsection (4) applies where the Welsh Ministers have issued a direction under section 6 (the "relevant direction") (whether or not there has been a variation under section 13 or 17 or an extension under section 22).
- (4) Where this subsection applies, the local housing authority must not, during the period described in subsection (5), make an application under section 1 for another direction that is substantially the same as the relevant direction.
- (5) The period referred to in subsection (4)—
 - (a) begins on the date that the relevant direction has effect, and
 - (b) ends two years from the date on which the relevant direction ceases to have effect.
- (6) In a case where there has been a variation under section 13 or 17, the references in subsections (4) and (5)(b) to the relevant direction are references to the direction having effect after the variation.
- (7) In a case where there has been an extension under section 22, the reference in subsection (5)(b) to the time when the relevant direction ceases to have effect is a reference to the time when the direction ceases to have effect in accordance with the extension.

30 Guidance

In the exercise of its functions under sections 3, 10, 15, 20 and 24, a local housing authority must have regard to any guidance given from time to time in writing by the Welsh Ministers.

CHAPTER 6

AMENDMENTS TO THE HOUSING ACT 1985

31 Consequence of the Welsh Ministers deciding to consider certain applications

- (1) The Housing Act 1985 is amended as follows.
- (2) Insert the following after section 122 of the Housing Act 1985—

**“122A Applications to suspend the right to buy etc in parts of Wales:
effect on claims to exercise the right**

- (1) Subsection (2) applies if—
 - (a) the Welsh Ministers are considering a local housing authority’s application for a direction (“the draft direction”) in accordance with section 4(1) or (2) or 11(1) or (2) of the Housing (Wales) Measure 2011;
 - (b) a claim to exercise the right to buy is made under section 122(1) in respect of a dwelling-house to which—
 - (i) in the case of an application which is being considered in accordance with section 4(1) or (2) of the 2011 Measure, the draft direction applies, or
 - (ii) in the case of an application which is being considered in accordance with section 11(1) or (2) of the 2011 Measure, the enlarging elements (within the meaning of section 7 of that Measure) of the draft direction apply;
 - (c) the claim was made after the date on which the Welsh Ministers decided to consider the application for the proposed direction, and
 - (d) the application has not been determined or withdrawn.
- (2) The claim to exercise the right to buy shall be stayed unless withdrawn by the tenant under section 122(3).
- (3) If the Welsh Ministers refuse to issue the direction, the stay shall be lifted on the date of refusal.
- (4) If the application for the direction is withdrawn, the stay shall be lifted on the date of withdrawal.
- (5) If the Welsh Ministers have not granted or rejected an application for a direction within six months beginning with the date on which they decided to consider the application (see sections 4(4) and 11(4) of the 2011 Measure), the stay shall be lifted on the day after the end of that period.
- (6) If a claim to exercise the right to buy is stayed at the time the Welsh Ministers grant an application for a direction, the claim is deemed not to have been made.

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

- (7) This section does not affect the computation of any period under Schedule 4.”
- (3) In section 124 (landlord’s notice admitting or denying right to buy)—
- (a) in subsection (1), insert “or (3)” after “subsection (2)”;
 - (b) after subsection (2) insert—
- “(3) But the period for serving a notice in a case where the stay of a claim to exercise the right to buy has been lifted under subsection (3), (4) or (5) of section 122A is four weeks beginning with the lifting date where the requirement of section 119 is satisfied by a period or periods during which the landlord was the landlord on which the tenant’s notice under section 122 was served, and eight weeks beginning with the lifting date in any other case.”
- (4) In section 153A (tenant’s notices of delay), in subsection (1)(a), insert “or (3)” after “subsection (2)”.

32 Effect of direction to suspend the right to buy

- (1) The Housing Act 1985 is amended as follows.
- (2) In section 122 (tenant’s notice claiming to exercise right to buy), at the beginning of subsection (1) insert “Unless section 122B applies”.
- (3) After section 122A (inserted by section 31 of this Measure) insert the following—

“122B Suspension of the right to buy in parts of Wales

- (1) This section applies to a secure tenant of a dwelling-house to which a direction having effect under Part 1 of the Housing (Wales) Measure 2011 applies.
- (2) While the direction has effect, the tenant may not claim to exercise the right to buy under section 122.
- (3) This section does not affect the computation of any period in accordance with Schedule 4.”

CHAPTER 7

MISCELLANEOUS

33 Interpretation of Part 1

- (1) Unless the context otherwise requires, an expression used in this Part and the Housing Act 1985 has the same meaning in this Part as it does in that Act.
- (2) For the purposes of this Part—
- “housing pressure condition” (*“cyflwr o bwysau oherwydd prinder tai”*) has the meaning given by section 1(2);
 - “local housing authority” (*“awdurdod tai lleol”*) means a local housing authority in Wales;

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“related rights” (“*hawliau cysylltiedig*”) has the meaning given to “rights related to the right to buy” (see section 1(3));

“social housing” (“*tai cymdeithasol*”) means any housing provided by a social housing provider.

- (3) For the purposes of this Part, “relevant dwelling-house”, in relation to an application for a direction, or a direction issued, under this Part means—
- (a) a dwelling-house—
 - (i) the landlord of which is a social housing provider, and
 - (ii) the tenant of which has the right to buy, or a right related to the right to buy, or would have such a right if he or she met the conditions which give rise to such a right, and
 - (b) includes a dwelling-house which meets the requirements of paragraph (a) after the date on which the application for a direction is made.
- (4) For the purposes of this Part, “social housing provider” means—
- (a) a local authority, and
 - (b) a person (other than a local authority) which—
 - (i) provides housing to, or
 - (ii) has functions relating to allocation of housing to,
 people whose needs are not adequately served by the commercial housing market;
- but a local authority or such other person is a social housing provider only insofar as it provides, or has functions relating to allocation of, housing.

34 Consequential etc orders

- (1) The Welsh Ministers may by order make such provision as the Welsh Ministers consider appropriate in consequence of, or for giving full effect to, any provision made by this Part.
- (2) The Welsh Ministers may by order make such provision as the Welsh Ministers consider appropriate for applying or extending any provision made by this Part (with or without modifications) to any provision about or connected with a right related to the right to buy.
- (3) The powers under subsections (1) and (2) include, but are not limited to, powers to make provision which amends, repeals or revokes any provision of—
 - (a) any Act of Parliament or Measure of the National Assembly for Wales (including this Measure), and
 - (b) subordinate legislation.
- (4) In this section “subordinate legislation” has the same meaning as in the Interpretation Act 1978.

PART 2

REGISTERED SOCIAL LANDLORDS

CHAPTER 1

PERFORMANCE

35 Standards of performance

Before section 34 of the Housing Act 1996 (but after the italic heading immediately before that section) insert—

“33A Standards of performance

- (1) The Welsh Ministers may set standards to be met by registered social landlords in connection with—
 - (a) their functions relating to the provision of housing, and
 - (b) matters relating to their governance and financial management.
- (2) In setting standards the Welsh Ministers must have regard to the desirability of registered providers being free to choose how to provide services and conduct business.
- (3) This section does not apply in relation to a registered social landlord’s provision of housing in England.”

36 Guidance on standards of performance

After section 33A of the Housing Act 1996 insert—

“33B Guidance on standards of performance

- (1) The Welsh Ministers may issue guidance that—
 - (a) relates to a matter addressed by a standard, and
 - (b) amplifies the standard.
- (2) In considering whether standards have been met the Welsh Ministers may have regard to the guidance.
- (3) The Welsh Ministers may revise or withdraw the guidance.
- (4) The Welsh Ministers must make arrangements for bringing the guidance to the attention of registered social landlords.”

37 Consultation

After section 33B of the Housing Act 1996 insert—

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

“33C Consultation

Before setting standards under section 33A, or issuing, revising or withdrawing guidance under section 33B, the Welsh Ministers must consult -

- (a) one or more bodies appearing to them to represent the interests of registered social landlords,
- (b) one or more bodies appearing to them to represent the interests of tenants, and
- (c) one or more bodies appearing to them to represent the interests of local housing authorities.”

38 Information as to levels of performance

- (1) Amend section 35 of the Housing Act 1996 (information as to levels of performance) as follows.
- (2) Before subsection (1) insert—
 - “(A1) The Welsh Ministers shall from time to time collect information as to the levels of performance achieved by registered social landlords in connection with—
 - (a) their functions relating to the provision of housing in Wales, and
 - (b) matters relating to their governance and financial management.”
- (3) In subsection (1), after “housing” insert “in England”.
- (4) In subsection (2), for “section 34” substitute “section 33A or 34”.

39 Guidance about complaints about performance

After section 35 of the Housing Act 1996 insert—

“Complaints about performance

35A Guidance about complaints about performance

- (1) The Welsh Ministers may publish guidance about complaints to the Welsh Ministers about the performance of registered social landlords.
- (2) The guidance may specify (among other things)—
 - (a) the procedure to be followed in making a complaint;
 - (b) the criteria used by the Welsh Ministers in deciding whether to investigate a complaint;
 - (c) periods within which the Welsh Ministers aim to inform complainants of the result of complaints.
- (3) The Welsh Ministers may revise or withdraw the guidance.
- (4) This section does not apply in relation to complaints about a registered social landlord’s provision of housing in England.”

40 Consultation

After section 35A of the Housing Act 1996 insert—

“35B Consultation

Before publishing, revising or withdrawing guidance under section 35A the Welsh Ministers must consult—

- (a) one or more bodies appearing to them to represent the interests of registered social landlords,
- (b) one or more bodies appearing to them to represent the interests of tenants,
- (c) one or more bodies appearing to them to represent the interests of local housing authorities, and
- (d) the Auditor General for Wales.”

CHAPTER 2

VOLUNTARY UNDERTAKINGS

41 Voluntary undertakings

After section 6 of the Housing Act 1996 insert—

“Voluntary undertakings

6A Voluntary undertakings

- (1) A registered social landlord may give the Welsh Ministers an undertaking in respect of any matter concerning housing.
- (2) The Welsh Ministers may prescribe a procedure to be followed in giving an undertaking.
- (3) The Welsh Ministers must have regard to any undertaking offered or given in exercising a regulatory or enforcement power.
- (4) The Welsh Ministers may base a decision about whether to exercise a regulatory or enforcement power wholly or partly on the extent to which an undertaking has been honoured.
- (5) In this section, “regulatory or enforcement power” means a power exercisable under any of the following provisions—
 - section 35,
 - section 37,
 - section 38,
 - Chapter 4A of this Part,
 - paragraphs 4 and 6 to 15H of Part 2 of Schedule 1,
 - Part 3A of Schedule 1,
 - Part 4 of Schedule 1.

- (6) This section does not apply in relation to a registered social landlord’s provision of housing in England.”

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—

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

“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).
- (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.

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

- (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.

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

- (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.
- (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

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

(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”.

CHAPTER 4

ENFORCEMENT

General

50 Welsh Ministers' enforcement powers: general

After section 50 of the Housing Act 1996 insert—

“CHAPTER 4A

ENFORCEMENT POWERS

General

50A Application of Chapter 4A

This Chapter does not apply in relation to a registered social landlord’s provision of housing in England.”

51 Exercise of enforcement powers

After section 50A of the Housing Act 1996 insert—

“50B Exercise of enforcement powers

- (1) This section applies where the Welsh Ministers are deciding—
- (a) whether to exercise an enforcement power,
 - (b) which enforcement power to exercise, or
 - (c) how to exercise an enforcement power.

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

- (2) The Welsh Ministers must consider—
- (a) the desirability of registered social landlords 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.
- (3) In subsection (1), an “enforcement power” means a power exercisable under any of the following provisions—
- this Chapter,
 - paragraphs 4, 6 to 8, 14 to 15B, 15D, 15F and 15H of Part 2 of Schedule 1,
 - paragraphs 20 to 27 of Part 4 of Schedule 1.”

Enforcement notice

52 Grounds for giving notice

After section 50B of the Housing Act 1996 insert—

“Enforcement notice

50C Grounds for giving notice

- (1) The Welsh Ministers may give an enforcement notice to a registered social landlord if they are 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 social landlord has failed to meet a standard applicable to it under section 33A.
- (3) Case 2 is where there has been misconduct or mismanagement in the affairs of the registered social landlord.
- (4) Case 3 is where the registered social landlord has failed to comply with an earlier enforcement notice.
- (5) Case 4 is where the registered social landlord has failed to publish information in accordance with a requirement under section 50I(3) or 50Q(3).
- (6) Case 5 is where the interests of tenants of the registered social landlord require protection.
- (7) Case 6 is where the registered social landlord’s assets require protection.
- (8) Case 7 is where the registered social landlord has given an undertaking under section 6A and failed to comply with it.
- (9) Case 8 is where an offence under this Part has been committed by the registered social landlord.

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

- (10) Case 9 is where the registered social landlord has failed to implement a recommendation made by the Public Services Ombudsman for Wales in a report prepared under section 16 of the Public Services Ombudsman (Wales) Act 2005.
- (11) Where the Welsh Ministers are satisfied that an offence under this Part has been committed in respect of a registered social landlord but by another person (such as a member, employee or agent of the registered social landlord)—
- (a) Case 8 applies,
 - (b) the Welsh Ministers 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 social landlord.”

53 Content

After section 50C of the Housing Act 1996 insert—

“50D Content

- (1) An enforcement notice must—
- (a) specify the grounds on which it is given,
 - (b) specify the action the Welsh Ministers want the registered social landlord 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 50E to 50G.
- (2) The action specified in an enforcement notice may include publishing the notice in a specified manner.”

54 Appeal

After section 50D of the Housing Act 1996 insert—

“50E Appeal

A registered social landlord who is given an enforcement notice may appeal to the High Court.”

55 Withdrawal

After section 50E of the Housing Act 1996 insert—

“50F Withdrawal

The Welsh Ministers may withdraw an enforcement notice by notice to the registered social landlord.”

56 Sanction

After section 50F of the Housing Act 1996 insert—

“50G Sanction

- (1) In the case of an enforcement notice given to a person other than the registered social landlord by virtue of section 50C(11), the Welsh Ministers 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.
- (2) A person to whom an enforcement notice is given on the ground in Case 8 of section 50C 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

57 Grounds for imposition

After section 50G of the Housing Act 1996 insert—

“Penalty

50H Grounds for imposition

- (1) The Welsh Ministers may require a registered social landlord to pay a penalty if they are 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 social landlord has failed to meet a standard under section 33A.
- (3) Case 2 is where there has been misconduct or mismanagement in the affairs of the registered social landlord.
- (4) Case 3 is where the registered social landlord has failed to comply with an enforcement notice.
- (5) Case 4 is where the registered social landlord has given an undertaking under section 6A and failed to comply with it.
- (6) Case 5 is where an offence under this Part has been committed by the registered social landlord.
- (7) Where the Welsh Ministers are satisfied that an offence under this Part has been committed in respect of a registered social landlord but by another person (such as a member, employee or agent of the registered social landlord)—
 - (a) Case 5 applies,

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- (b) the Welsh Ministers 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 social landlord.

(8) In order to rely on Case 5 the Welsh Ministers must be satisfied beyond reasonable doubt that it applies.”

58 Imposition

After section 50H of the Housing Act 1996 insert—

“50I Imposition

- (1) A penalty is imposed by the Welsh Ministers giving notice (a “penalty notice”) to the registered social landlord.
- (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 50M, is payable in the event of late payment.
- (3) The notice may require the registered social landlord to publish information about the penalty in a specified manner.
- (4) The notice must explain the effect of sections 50M(1), (3) and (5) and 50N.”

59 Amount

After section 50I of the Housing Act 1996 insert—

“50J Amount

- (1) The amount of a penalty imposed on the ground specified in Case 5 of section 50H 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 Welsh Ministers may by order amend the amount specified in subsection (2).
- (4) An order under subsection (3) is to be made by statutory instrument and must not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.”

60 Warning

After section 50J of the Housing Act 1996 insert—

“50K Warning

- (1) Before giving a penalty notice to a registered social landlord the Welsh Ministers must give the landlord a notice (a “pre-penalty warning”)—
 - (a) specifying grounds on which the Welsh Ministers think a penalty could be imposed,
 - (b) warning the landlord that the Welsh Ministers are considering imposing a penalty,
 - (c) including any indication that the Welsh Ministers are able to give of the likely amount of any penalty, and
 - (d) explaining the effect of sections 50L, 50M(1), (3) and (5) and 50N.
- (2) The Welsh Ministers must send a copy of a pre-penalty warning to any person they think appropriate (having regard, in particular, to any person who provided information as a result of which the pre-penalty warning is given).
- (3) A pre-penalty 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, a penalty.
- (4) A pre-penalty warning may be combined with notice under one or more of the following—
 - (a) section 50S,
 - (b) paragraphs 15C, 15E and 15G of Schedule 1.”

61 Representations

After section 50K of the Housing Act 1996 insert—

“50L Representations

- (1) A pre-penalty 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
 - (b) begin with the date on which the registered social landlord receives the pre-penalty warning.
- (3) Representations may address—
 - (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 Welsh Ministers must—
 - (a) consider any representations made, and
 - (b) decide whether to impose a penalty.”

62 Enforcement

After section 50L of the Housing Act 1996 insert—

“50M Enforcement

- (1) A penalty is to be treated as a debt owed to the Welsh Ministers.
- (2) The Welsh Ministers may—
 - (a) charge interest on a penalty not paid during the period specified under section 50I(2)(d);
 - (b) impose one or more additional penalties where a penalty is not paid during that period.
- (3) Interest and additional penalty are to be treated as penalty (and may have the effect of increasing the penalty above a limit set by section 50J).
- (4) 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 50I(2)(d)).
- (5) A person to whom a penalty notice is given on the ground in Case 5 of section 50H may not be prosecuted for the offence by reference to which the penalty notice was given.”

63 Appeal

After section 50M of the Housing Act 1996 insert—

“50N Appeal

A registered social landlord 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

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

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(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.

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

- (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—

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

“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
 - (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.”

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

Management and constitution of registered social landlords

72 Management tender

After paragraph 15A of Schedule 1 to the Housing Act 1996 insert—

“Management etc

Management tender

- 15B (1) This paragraph applies if the Welsh Ministers are satisfied that—
- (a) a registered social landlord has failed to meet a standard under section 33A, or
 - (b) there has been misconduct or mismanagement in the affairs of the registered social landlord.
- (2) But this paragraph does not apply where the misconduct or mismanagement relates only to the registered social landlord’s provision of housing in England.
- (3) The Welsh Ministers may require the registered social landlord to implement a process specified by them for the purpose of—
- (a) inviting persons to apply to undertake management functions of the registered social landlord, and
 - (b) selecting from the applications and making an appointment.
- (4) A requirement may relate to—
- (a) the registered social landlord’s affairs generally, or
 - (b) specified affairs.
- (5) 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 consistent with any applicable procurement law), and
 - (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).”

73 Management tender: supplemental

After paragraph 15B of Schedule 1 to the Housing Act 1996 insert—

“Management tender: supplemental

- 15C (1) Before acting under paragraph 15B(3) the Welsh Ministers must give the registered social landlord a notice—
- (a) specifying grounds on which action might be taken under that paragraph,

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- (b) warning the landlord that the Welsh Ministers are considering action under that paragraph, and
 - (c) explaining the effect of this paragraph.
- (2) The notice must specify a period during which the registered social landlord may make representations to the Welsh Ministers.
- (3) The period must—
 - (a) be a period of at least 28 days, and
 - (b) begin with the date on which the registered social landlord receives the notice.
- (4) The Welsh Ministers must send a copy of a notice under sub-paragraph (1) to any person they think appropriate (having regard, in particular, to any person who provided information as a result of which the notice is given).
- (5) A notice under sub-paragraph (1) 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, action under paragraph 15B(3).
- (6) Notice under sub-paragraph (1) may be combined with notice under one or more of the following—
 - (a) sections 50K and 50S,
 - (b) paragraphs 15E and 15G.
- (7) In imposing a requirement the Welsh Ministers must have regard to views of—
 - (a) relevant tenants,
 - (b) the registered social landlord, and
 - (c) if they think it appropriate, any relevant local housing authority.
- (8) A registered social landlord may appeal to the High Court against a requirement under paragraph 15B(3).”

74 Management transfer

After paragraph 15C of Schedule 1 to the Housing Act 1996 insert—

“Management transfer

- 15D (1) This paragraph applies if, as a result of an inquiry under paragraph 20 or an audit under paragraph 22, the Welsh Ministers are satisfied that—
- (a) there has been misconduct or mismanagement in the affairs of the registered social landlord, or
 - (b) a transfer of certain of a registered social landlord’s management functions would be likely to improve the management of some or all of its affairs.
- (2) But this paragraph does not apply where—
- (a) the misconduct or mismanagement relates only to the registered social landlord’s provision of housing in England, or

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

- (b) the transfer would be likely to improve the registered social landlord's management of its affairs only in relation to the provision of housing in England.
- (3) The Welsh Ministers may require the registered social landlord to transfer management functions to a specified person.
- (4) A requirement may relate to—
 - (a) the registered social landlord's affairs generally, or
 - (b) specified affairs.
- (5) Transfer is to be on terms and conditions (including as to remuneration) specified in, or determined in accordance with, the requirement.
- (6) A transferee manager is to have—
 - (a) any power specified in the requirement, and
 - (b) any other power in relation to the registered social landlord'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 social landlord)."

75 **Management transfer: supplemental**

After paragraph 15D of Schedule 1 to the Housing Act 1996 insert—

“Management transfer: supplemental

- 15E (1) Before acting under paragraph 15D(3) the Welsh Ministers must give the registered social landlord a notice—
- (a) specifying grounds on which action might be taken under that paragraph,
 - (b) warning the landlord that the Welsh Ministers are considering action under that paragraph, and
 - (c) explaining the effect of this paragraph.
- (2) The notice must specify a period during which the registered social landlord may make representations to the Welsh Ministers.
- (3) The period must—
- (a) be a period of at least 28 days, and
 - (b) begin with the date on which the registered social landlord receives the notice.
- (4) The Welsh Ministers must send a copy of a notice under sub-paragraph (1) to any person they think appropriate (having regard, in particular, to any person who provided information as a result of which the notice is given).
- (5) A notice under sub-paragraph (1) must—
- (a) refer to section 6A, and
 - (b) indicate whether or to what extent the social landlord would accept a voluntary undertaking instead of, or in mitigation of, action under paragraph 15D(3).

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

- (6) Notice under sub-paragraph (1) may be combined with notice under one or more of the following—
 - (a) sections 50K and 50S,
 - (b) paragraphs 15C and 15G.
- (7) In imposing a requirement the Welsh Ministers must have regard to views of—
 - (a) relevant tenants,
 - (b) the registered social landlord, and
 - (c) if they think it appropriate, any relevant local housing authority.
- (8) A registered social landlord may appeal to the High Court against a requirement under paragraph 15D(3).”

76 Appointment of manager of registered social landlord

After paragraph 15E of Schedule 1 to the Housing Act 1996 insert—

“Appointment of manager of registered social landlord

- 15F (1) This paragraph applies if the Welsh Ministers are satisfied that—
- (a) a registered social landlord has failed to meet a standard under section 33A, or
 - (b) there has been misconduct or mismanagement in the affairs of the registered social landlord.
- (2) But this paragraph does not apply where the misconduct or mismanagement relates only to the registered social landlord’s provision of housing in England.
- (3) The Welsh Ministers may—
- (a) appoint an individual as a manager of the registered social landlord, or
 - (b) require the registered social landlord to appoint an individual as a manager.
- (4) An appointment or requirement may relate to the management of —
- (a) the registered social landlord’s affairs generally, or
 - (b) specified affairs.
- (5) Appointment is to be on terms and conditions (including as to remuneration) specified in, or determined in accordance with, the appointment or requirement.
- (6) A manager is to have—
- (a) any power specified in the appointment or requirement, and
 - (b) any other power in relation to the registered social landlord’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 social landlord).”

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

77 **Appointment of manager: supplemental**

After paragraph 15F of Schedule 1 to the Housing Act 1996 insert—

“Appointment of manager: supplemental

- 15G (1) Before acting under paragraph 15F(3) the Welsh Ministers must give the registered social landlord a notice—
- (a) specifying grounds on which action might be taken under that paragraph,
 - (b) warning the landlord that the Welsh Ministers are considering action under that paragraph, and
 - (c) explaining the effect of this paragraph.
- (2) The notice must specify a period during which the registered social landlord may make representations to the Welsh Ministers.
- (3) The period must—
- (a) be a period of at least 28 days, and
 - (b) begin with the date on which the registered social landlord receives the notice.
- (4) The Welsh Ministers must send a copy of a notice under sub-paragraph (1) to any person they think appropriate (having regard, in particular, to any person who provided information as a result of which the notice is given).
- (5) A notice under sub-paragraph (1) 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, action under paragraph 15F(3).
- (6) Notice under sub-paragraph (1) may be combined with notice under one or more of the following—
- (a) sections 50K and 50S,
 - (b) paragraphs 15C and 15E.
- (7) The Welsh Ministers may require a manager to report to them on the affairs specified in the appointment or requirement under paragraph 15F(3).
- (8) A registered social landlord may appeal to the High Court against an appointment or requirement under paragraph 15F(3).”

78 **Amalgamation**

After paragraph 15G of Schedule 1 to the Housing Act 1996 insert—

“Amalgamation

- 15H (1) This paragraph applies if as a result of an inquiry under paragraph 20 or an audit under paragraph 22, the Welsh Ministers are satisfied that—
- (a) there has been misconduct or mismanagement in the affairs of a registered social landlord which is an industrial and provident society, or

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

- (b) the management of the affairs of a registered social landlord which is an industrial and provident society would be improved if the landlord were amalgamated with another industrial and provident society.
- (2) But this paragraph does not apply where—
- (a) the misconduct or mismanagement relates only to the registered social landlord’s provision of housing in England, or
 - (b) the amalgamation would improve the management of the registered social landlord’s affairs only in relation to the provision of housing in England.
- (3) The Welsh Ministers may make and execute on behalf of the society an instrument providing for the amalgamation of the society with another industrial and provident society.
- (4) An instrument providing for the amalgamation of a society (“S1”) with another has the same effect as a special resolution by S1 under section 50 of the Industrial and Provident Societies Act 1965 (amalgamation of societies by special resolution).
- (5) A copy of an instrument must 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 must be registered as a social landlord by the Welsh Ministers, and pending registration is to be treated as registered.”

79 Restrictions on dealings during an inquiry

In paragraph 23 of Schedule 1 to the Housing Act 1996 (powers exercisable on interim basis), after sub-paragraph (2) insert—

“(2A) Before making an order under sub-paragraph (2)(b) or (c) the Welsh Ministers must take all reasonable steps to give notice to the registered social landlord and, in the case of an order under sub-paragraph (2)(b), to the person to whom the order is directed.”

80 Restrictions on dealings following an inquiry or extraordinary audit

- (1) Amend paragraph 24 of Schedule 1 to the Housing Act 1996 (powers exercisable as a result of final report or audit) as follows.
- (2) After sub-paragraph (3) insert—
- “(3A) Before making an order under sub-paragraph (2)(c) or (d) the Welsh Ministers must take all reasonable steps to give notice to the registered social landlord and, in the case of an order under sub-paragraph (2)(c), to the person to whom the order is directed.”

(3) After sub-paragraph (6) add—

“(7) An order under sub-paragraph (2)(c) or (d) has effect until revoked by the Welsh Ministers.”

81 Disqualification of removed person

(1) In paragraph 25 of Schedule 1 to the Housing Act 1996 (disqualification as officer of registered social landlord), after sub-paragraph (4) insert—

“(4A) The register must show details of any waivers.”

82 Acting while disqualified

(1) Amend paragraph 26 of Schedule 1 to the Housing Act 1996 (persons acting as officer while disqualified) as follows.

(2) In sub-paragraph (1)(a) for “six months” substitute “12 months”.

(3) After sub-paragraph (1) insert—

“(1A) In relation to an offence committed before the commencement of section 282 of the Criminal Justice Act 2003 (short sentences) the reference in sub-paragraph (1)(a) to 12 months has effect as if it were a reference to 6 months.”

(4) After sub-paragraph (4) add—

“(5) If a person fails to comply with an order directing repayment, the registered social landlord or the Welsh Ministers (as the case may be) may recover the sum or specified amount as a debt.”

CHAPTER 5

MISCELLANEOUS AND GENERAL PROVISIONS

83 Insolvency, etc of registered social landlord: appointment of interim manager

After section 43 of the Housing Act 1996 insert—

“43A Appointment of interim manager

(1) During a moratorium the Welsh Ministers may appoint an interim manager of the registered social landlord.

(2) An appointment may relate to the registered social landlord’s affairs generally or to affairs specified in the appointment.

(3) But an appointment may not relate to affairs relating only to the provision of housing in England.

(4) Appointment is to be on terms and conditions (including as to remuneration and expenses) specified in, or determined in accordance with, the appointment.

(5) An interim manager has—

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

- (a) any power specified in the appointment, and
 - (b) any other power in relation to the registered social landlord'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 landlord).
- (6) But an interim manager may not—
- (a) dispose of land, or
 - (b) grant security over land.
- (7) The Welsh Ministers may give the interim manager general or specific directions.
- (8) The Welsh Ministers may revoke or amend any directions given.
- (9) An appointment under this section comes to an end with the earliest of the following—
- (a) the end of the moratorium,
 - (b) the agreement of proposals made under section 44, or
 - (c) a date specified in the appointment.
- (10) If a person ceases to be an interim manager before the appointment has come to an end, the Welsh Ministers may appoint a new interim manager in place of that person.”

84 Removal of officers

- (1) Amend Schedule 1 to the Housing Act 1996 as follows.
- (2) In the heading to paragraph 4, for “director, trustee, etc” substitute “officer”.
- (3) In paragraph 4 (general power to remove officer), in sub-paragraph (1)—
 - (a) after “remove” insert “an officer of a registered social landlord.”;
 - (b) omit paragraphs (a) to (c).
- (4) In paragraph 5 (restriction on power of removal in case of registered charity), in sub-paragraph (1), for “a director or trustee” substitute “an officer”.

85 Appointment of new officers

- (1) Amend Schedule 1 to the Housing Act 1996 as follows.
- (2) In the heading to paragraph 6, for “director or trustee” substitute “officer”.
- (3) In paragraph 6 (registered charity: power to appoint new officer)—
 - (a) in sub-paragraph (1), for “a director or trustee” substitute “an officer”;
 - (b) in paragraph (b) of sub-paragraph (1), for “no directors or no trustees” substitute “no officers”;
 - (c) in paragraph (c) of sub-paragraph (1), for “director or trustee” substitute “officer”;
 - (d) in the second sentence of sub-paragraph (1), for “directors or trustees” substitute “officers”;
 - (e) in sub-paragraph (5), for “director or trustee” substitute “an officer”.

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

- (4) In the heading to paragraph 7, for “director” substitute “officer”.
- (5) In paragraph 7 (company: power to appoint new officer)—
 - (a) in sub-paragraph (1), for “a director” in both places substitute “an officer”;
 - (b) in paragraph (b) of sub-paragraph (1), for “no directors” substitute “no officers”;
 - (c) in paragraph (c) of sub-paragraph (1), for “director” substitute “officer”.
- (6) In the heading to paragraph 8, for “new committee member” substitute “officer”.
- (7) In paragraph 8 (industrial and provident society: power to appoint new officer)—
 - (a) in sub-paragraph (1), for “a committee member” substitute “an officer”;
 - (b) in paragraph (b) of sub-paragraph (1), for “no members of the committee” substitute “no officers”;
 - (c) in paragraph (c) of sub-paragraph (1), for “committee member” substitute “officer”;
 - (d) in the second sentence of sub-paragraph (1), for “committee members” substitute “officers”.

86 Charities that have “received public assistance”

In section 58 of the Housing Act 1996 (definitions relating to charities), after subsection (1) insert—

- “(1A) For the purposes of this Part a registered charity has received public assistance if at least one of the following conditions is satisfied—
- (a) the charity has received financial assistance under section 24 of the Local Government Act 1988 (assistance for privately let housing accommodation);
 - (b) the charity has received financial assistance under section 19 of the Housing and Regeneration Act 2008 (financial assistance);
 - (c) the charity has had housing transferred to it pursuant to—
 - (i) a large scale disposal, within the meaning of section 34 of the Housing Act 1985, for which consent was required under section 32 or 43 of that Act, or
 - (ii) a qualifying disposal that was made under section 135 of the Leasehold Reform, Housing and Urban Development Act 1993;
 - (d) the charity has received a grant or loan under—
 - (i) section 18 (social housing grants),
 - (ii) section 22 (assistance from local authorities),
 - (iii) section 58 of the Housing Associations Act 1985 (grants or loans by local authorities),
 - (iv) section 50 of the Housing Act 1980, section 41 of the Housing Associations Act 1985 or any enactment replaced by that section (housing association grant),
 - (v) section 51 of the Housing Act 1988 or sections 54 or 55 of the Housing Associations Act 1985 (revenue deficit grant or hostel deficit grant),

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- (vi) section 79 of the Housing Associations Act 1985 (loans by Housing Corporation),
- (vii) section 31 of the Housing Act 1974 (management grants), or
- (viii) any enactment mentioned in paragraph 2 or 3 of Schedule 1 to the Housing Associations Act 1985 (pre-1974 grants and certain loans).”

87 Minor definitions

In section 63 of the Housing Act 1996 (minor definitions: Part 1), in subsection (1), insert in the appropriate places—

- ““action” includes inaction, proposed action and decision;”
- ““misconduct” includes any failure to comply with the requirements of this Part of this Act;”
- ““representations” means representations in writing;”.

88 Minor and consequential amendments

The Schedule contains minor and consequential amendments.

PART 3

SUPPLEMENTARY AND FINAL PROVISIONS

89 Orders

- (1) Any power of the Welsh Ministers to make an order under this Measure—
 - (a) is exercisable by statutory instrument;
 - (b) includes power—
 - (i) to make different provision for different cases, areas, authorities and descriptions of authority;
 - (ii) to make provision generally or in relation to specific cases;
 - (iii) to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Welsh Ministers think fit.
- (2) A statutory instrument containing an order under section 34 is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (3) But subsection (2) does not apply if an order contains provisions made under the powers mentioned in subsection (4).
- (4) A statutory instrument which contains (alone or with other provisions) an order made under section 34(3)(a) must not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

90 Commencement

- (1) This Part of this Measure comes into force at the end of a period of two months beginning on the day on which this Measure is approved by Her Majesty in Council.

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

- (2) The other provisions of this Measure come into force in accordance with provision made by the Welsh Ministers by order, and an order may provide for those provisions to come into force on different days for different purposes.

91 Short title

This Measure may be cited as the Housing (Wales) Measure 2011.