

HOUSING (WALES) MEASURE 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Registered Social Landlords

Chapter 4 – Enforcement

Compensation

149. Sections 64 to 71 insert new sections 50O to 50V into the 1996 Act. These new sections describe the arrangements relating to the imposition of a requirement on a RSL to pay compensation.

Section 64 - Grounds for Award

150. This section inserts a new section 50O into the 1996 Act which specifies the grounds on which the Welsh Ministers may require a RSL to pay compensation. The Welsh Ministers must be satisfied either that the RSL has failed to meet a standard of performance as set out in section 33A of the 1996 Act, or that the RSL has failed to comply with an undertaking that it has given to the Welsh Ministers under section 6A of that Act. They must also be satisfied that the award of compensation is appropriate.

Section 65 - Persons to whom compensation may be awarded

151. This section inserts a new section 50P into the 1996 Act which indicates those circumstances under which compensation may be awarded. It should be awarded to a person or persons who have suffered as a result of the failure that forms the basis for awarding compensation.

Section 66 - Award

152. This section inserts a new section 50Q into the 1996 Act which specifies the process for giving a notice to a RSL that requires payment of compensation, and the content of that notice. Compensation is awarded by the Welsh Ministers giving written notice (a “compensation notice”) to the RSL and the person or persons to be compensated.
153. Subsection (2) of new section 50Q provides that compensation notices must set out:
- the grounds on which compensation is awarded,
 - the amount of the compensation award,
 - the person or persons who are to be compensated,
 - the period within which that compensation must be paid, and
 - any interest or additional compensation payable in the event of late payment.
154. The notice may require the RSL to publish information about the award and must explain the effects of sections 50U (enforcement) and 50V (appeal) of the 1996 Act.

Section 67 - Impact

155. This section inserts a new section 50R into the 1996 Act which requires the Welsh Ministers to take account of any information available to it about the financial situation of the RSL when considering awarding compensation and when considering the amount. The Welsh Ministers must consider the likely impact on the RSL's ability to provide services and in particular, must aim to avoid jeopardising its financial viability, existing financial commitments, and ability to remedy the problem.

Section 68 - Warning

156. This section inserts a new section 50S into the 1996 Act which allows for the issue of a 'pre-compensation warning' and specifies a similar procedure to that in section 50K(1) of the 1996 Act (pre-penalty warnings), as inserted by section 60 of this Measure.

Section 69 - Representations

157. This section inserts a new section 50T into the 1996 Act which allows the RSL to make representations to the Welsh Ministers in relation to compensation. The process specifies a similar procedure to that in section 50L of the 1996 Act (pre-penalty warnings - representations), as inserted by section 61 of this Measure.

Section 70 - Enforcement

158. This section inserts a new section 50U into the 1996 Act which makes provision for compensation payments to be enforced in a similar manner to section 50M of the 1996 Act, as inserted by section 62 of this Measure. Compensation is treated as a debt to the person or persons to whom it has been awarded. The Welsh Ministers may award interest or additional compensation for non payment or late payment of compensation.

Section 71 - Appeal

159. This section inserts a new section 50V into the 1996 Act which gives a RSL the right to appeal to the High Court against the award of compensation or the amount of compensation awarded.