



# Housing Act 1996

## 1996 CHAPTER 52

### PART I

[<sup>F1</sup>SOCIAL RENTED SECTOR [<sup>F1</sup>REGULATED BY THE WELSH MINISTERS]]

### CHAPTER IV

GENERAL POWERS OF THE [<sup>F1</sup>RELEVANT AUTHORITY]

#### Textual Amendments

**F1** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### *Information*

#### **30 General power to obtain information.**

- (1) The [<sup>F2</sup>Relevant Authority] may for any purpose connected with the discharge of any of its functions in relation to registered social landlords serve a notice on a person requiring him—
- (a) to give to [<sup>F3</sup>the Welsh Ministers], at a time and place and in the form and manner specified in the notice, such information relating to the affairs of a registered social landlord as may be specified or described in the notice, or
  - (b) to produce to [<sup>F3</sup>the Welsh Ministers] or a person authorised by [<sup>F3</sup>the Welsh Ministers], at a time and place specified in the notice, any documents relating to the affairs of the registered social landlord which are specified or described in the notice and are in his custody or under his control.
- (2) A notice under this section may be served on—
- (a) a registered social landlord,

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- (b) any person who is, or has been, an officer, member, employee or agent of a registered social landlord,
- (c) a subsidiary or associate of a registered social landlord,
- (d) any person who is, or has been, an officer, member, employee or agent of a subsidiary or associate of a registered social landlord, or
- (e) any other person whom [<sup>F3</sup>the Welsh Ministers] has reason to believe is or may be in possession of relevant information.

In this section “agent” includes banker, solicitor and auditor.

- (3) No notice shall be served on a person within paragraphs (b) to (e) of subsection (2) unless—
  - (a) a notice has been served on the registered social landlord and has not been complied with, or
  - (b) [<sup>F3</sup>the Welsh Ministers] believes that the information or documents in question are not in the possession of the landlord.
- (4) Nothing in this section authorises [<sup>F3</sup>the Welsh Ministers] to require—
  - (a) the disclosure of anything which a person would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court, or
  - (b) the disclosure by a banker of anything in breach of any duty of confidentiality owed by him to a person other than a registered social landlord or a subsidiary or associate of a registered social landlord.
- [<sup>F4</sup>(5) A notice under this section—
  - [<sup>F5</sup>(a) . . . . .
  - (b) if given by the [<sup>F6</sup>Welsh Ministers] , shall be given in writing.]
- (6) References in this section to a document are to anything in which information of any description is recorded; and in relation to a document in which information is recorded otherwise than in legible form, references to producing it are to producing it in legible form.
- (7) Where by virtue of this section documents are produced to any person, he may take copies of or make extracts from them.

#### Textual Amendments

- F2** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F3** Words in Pt. I substituted (1.4.2010) by **Housing and Regeneration Act 2008 (c. 17), ss. 61(7), 325(1); S.I. 2010/862, art. 2 (with Sch.)**
- F4** S. 30(5) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para.86** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F5** S. 30(5)(a) repealed (1.4.2010) by **The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), Sch. 2 para. 89, Sch. 4 (with art. 6, Sch. 3)**
- F6** Words in s. 30(5)(b) substituted (1.4.2010) by **Housing and Regeneration Act 2008 (c. 17), ss. 62(a), 325(1); S.I. 2010/862, art. 2 (with Sch.)**

#### Modifications etc. (not altering text)

- C1** S. 30 extended (16.9.1996) by S.I. 1996/2402, art. 3, **Sch. para. 1**

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- C2** S. 30(2) applied (with modifications) (23.12.2011) by [The Legal Services Act 2007 \(Designation as a Licensing Authority\) \(No. 2\) Order 2011 \(S.I. 2011/2866\)](#), art. 1(2), **Sch. 2**
- C3** S. 30(5) modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), arts. 1(1), 3, **Sch. para. 5** (with art. 6)

### 31 Enforcement of notice to provide information, &c.

- (1) A person who without reasonable excuse fails to do anything required of him by a notice under section 30 commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (2) A person who intentionally alters, suppresses or destroys a document which he has been required by a notice under section 30 to produce commits an offence and is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum,
  - <sup>F7</sup>(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.]
- (3) Proceedings for an offence under subsection (1) or (2) may be brought only by or with the consent of [<sup>F3</sup>the Welsh Ministers] or the Director of Public Prosecutions.
- (4) If a person makes default in complying with a notice under section 30, the High Court may, on the application of [<sup>F3</sup>the Welsh Ministers], make such order as the court thinks fit for requiring the default to be made good.

Any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a body who are responsible for its default.

#### Textual Amendments

- F3** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. **61(7)**, 325(1); S.I. 2010/862, art. 2 (with Sch.)
- F7** S. 31(2)(b) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), s. 270(3)(c), **Sch. 11 para. 12(1)** (with Sch. 11 para. 12(2))

#### Modifications etc. (not altering text)

- C4** S. 31 extended (16.9.1996) by S.I. 1996/2402, art. 3, **Sch. para. 1**

### 32 Disclosure of information to [<sup>F3</sup>the Welsh Ministers].

- (1) A body or person to whom this section applies may, subject to the following provisions, disclose to [<sup>F3</sup>the Welsh Ministers], for the purpose of enabling [<sup>F3</sup>the Welsh Ministers] to discharge any of its functions relating to registered social landlords, any information received by that body or person under or for the purposes of any enactment.
- (2) This section applies to the following bodies and persons—
  - (a) any government department (including a Northern Ireland department);
  - (b) any local authority;
  - (c) any constable; and

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- (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).
- (3) This section has effect subject to any express restriction on disclosure imposed by or under any other enactment.
- (4) Nothing in this section shall be construed as affecting any power of disclosure exercisable apart from this section.

**Textual Amendments**

**F3** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2](#) (with [Sch.](#))

**Modifications etc. (not altering text)**

**C5** S. 32 extended (16.9.1996) by [S.I. 1996/2402, art. 3, Sch. para. 1](#)

**33 Disclosure of information by [<sup>F3</sup>the Welsh Ministers].**

- (1) The [<sup>F8</sup>Relevant Authority] may disclose to a body or person to whom this section applies any information received by it relating to a registered social landlord—
  - (a) for any purpose connected with the discharge of the functions of [<sup>F3</sup>the Welsh Ministers] in relation to such landlords, or
  - (b) for the purpose of enabling or assisting that body or person to discharge any of its or his functions.
- (2) This section applies to the following bodies and persons—
  - (a) any government department (including a Northern Ireland department);
  - (b) any local authority;
  - (c) any constable; and
  - (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).

Paragraph (d) extends to any such body or person in a country or territory outside the United Kingdom.

- (3) Where any information disclosed to [<sup>F3</sup>the Welsh Ministers] under section 32 is so disclosed subject to any express restriction on the further disclosure of the information, [<sup>F3</sup>the Welsh Ministers] power of disclosure under this section is exercisable subject to that restriction.

A person who discloses information in contravention of any such restriction commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (4) Any information disclosed by [<sup>F3</sup>the Welsh Ministers] under this section may be subject by [<sup>F3</sup>the Welsh Ministers] to any express restriction on the further disclosure of the information.

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- (5) A person who discloses information in contravention of any such restriction commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Proceedings for such an offence may be brought only by or with the consent of [<sup>F3</sup>the Welsh Ministers] or the Director of Public Prosecutions.

- (6) Nothing in this section shall be construed as affecting any power of disclosure exercisable apart from this section.

#### Textual Amendments

**F3** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2 \(with Sch.\)](#)

**F8** Words in Pt. I substituted (1.11.1998) by [1998 c. 38, s. 140, Sch. 16 para. 82\(1\)\(2\) \(with ss. 139\(2\), 141\(1\), 143\(2\)\); S.I. 1998/2244, art.5.](#)

#### Modifications etc. (not altering text)

**C6** S. 33 extended (16.9.1996) by [S.I. 1996/2402, art. 3, Sch. para. 1](#)

### *Standards of performance*

#### [<sup>F9</sup>33A Standards of performance

- (1) The Welsh Ministers may set standards to be met by registered social landlords in connection with—
- their functions relating to the provision of housing, and
  - 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.

[ Standards set under subsection (1) may require registered social landlords to comply <sup>F10</sup>(2A) with rules specified in the standards.

- (2B) The Welsh Ministers may—
- revise the standards by issuing further standards under this section;
  - withdraw the standards by issuing further standards under this section or by notice.

(2C) The Welsh Ministers must publish any standards or notice under this section.]

- (3) This section does not apply in relation to a registered social landlord's provision of housing in England.]

#### Textual Amendments

**F9** S. 33A inserted (18.10.2011 for specified purposes, 2.12.2011 in so far as not already in force) by [Housing \(Wales\) Measure 2011 \(nawm 5\), ss. 35, 90\(2\); S.I. 2011/2475, arts. 1\(2\), 2\(a\), 3\(a\)](#)

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**F10** S. 33A(2A)-(2C) inserted (1.12.2014) by Housing (Wales) Act 2014 (anaw 7), s. 145(3), **Sch. 3 para. 28(2)**; S.I. 2014/3127, art. 2(a), Sch. Pt. 1

### [<sup>F11</sup>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.

[<sup>F12</sup>(3) The Welsh Ministers may—

- (a) revise the guidance by issuing further guidance under this section;
- (b) withdraw the guidance by issuing further guidance under this section or by notice.]

[<sup>F13</sup>(4) The Welsh Ministers must publish any guidance or notice under this section.]]

#### Textual Amendments

- F11** S. 33B inserted (18.10.2011 for specified purposes, 2.12.2011 in so far as not already in force) by Housing (Wales) Measure 2011 (nawm 5), **ss. 36, 90(2)**; S.I. 2011/2475, arts. 1(2), 2(b), 3(b)
- F12** S. 33B(3) substituted (1.12.2014) by Housing (Wales) Act 2014 (anaw 7), s. 145(3), **Sch. 3 para. 28(3)(a)**; S.I. 2014/3127, art. 2(a), Sch. Pt. 1
- F13** S. 33B(4) substituted (1.12.2014) by Housing (Wales) Act 2014 (anaw 7), s. 145(3), **Sch. 3 para. 28(3)(b)**; S.I. 2014/3127, art. 2(a), Sch. Pt. 1

### [<sup>F14</sup>33C Consultation

Before setting [<sup>F15</sup>, revising or withdrawing] 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.]

#### Textual Amendments

- F14** S. 33C inserted (18.10.2011) by Housing (Wales) Measure 2011 (nawm 5), **ss. 37, 90(2)**; S.I. 2011/2475, arts. 1(2), 2(c)
- F15** Words in s. 33C inserted (1.12.2014) by Housing (Wales) Act 2014 (anaw 7), s. 145(3), **Sch. 3 para. 28(4)**; S.I. 2014/3127, art. 2(a), Sch. Pt. 1

## 34 Standards of performance [<sup>F16</sup>– housing in England] .

The [<sup>F17</sup>Relevant Authority] may, after consultation with persons or bodies appearing to it to be representative of registered social landlords, from time to time—

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- (a) determine such standards of performance in connection with the provision of housing [<sup>F18</sup>in England] as, in its opinion, ought to be achieved by such landlords, and
- (b) arrange for the publication, in such form and in such manner as it considers appropriate, of the standards so determined.

#### Textual Amendments

- F16** Words in s. 34 heading inserted (2.12.2011) by Housing (Wales) Measure 2011 (nawm 5), s. 90(2), **Sch. para. 4**; S.I. 2011/2475, arts. 1(2), 3(k)
- F17** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F18** Words in s. 34(a) inserted (2.12.2011) by Housing (Wales) Measure 2011 (nawm 5), s. 90(2), **Sch. para. 5**; S.I. 2011/2475, arts. 1(2), 3(k)

#### Modifications etc. (not altering text)

- C7** S. 34 extended (16.9.1996) by S.I. 1996/2402, art. 3, **Sch. para. 1**

### 35 Information as to levels of performance.

- [<sup>F19</sup>(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.]
- (1) The [<sup>F20</sup>Relevant Authority] shall from time to time collect information as to the levels of performance achieved by registered social landlords in connection with the provision of housing [<sup>F21</sup>in England] .
- (2) On or before such date in each year as may be specified in a direction given by [<sup>F3</sup>the Welsh Ministers], each registered social landlord shall provide [<sup>F3</sup>the Welsh Ministers], as respects each standard determined under [<sup>F22</sup>section 33A or 34], with such information as to the level of performance achieved by him as may be so specified.
- (3) A registered social landlord who without reasonable excuse fails to do anything required of him by a direction under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- Proceedings for such an offence may be brought only by or with the consent of [<sup>F3</sup>the Welsh Ministers] or the Director of Public Prosecutions.
- (4) The [<sup>F20</sup>Relevant Authority] shall at least once in every year arrange for the publication, in such form and in such manner as it considers appropriate, of such of the information collected by or provided to it under this section as appears to it expedient to give to tenants or potential tenants of registered social landlords.
- (5) In arranging for the publication of any such information [<sup>F3</sup>the Welsh Ministers] shall have regard to the need for excluding, so far as that is practicable—
- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the [<sup>F3</sup>the Welsh Ministers], seriously and prejudicially affect the interests of that individual; and

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- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of [<sup>F3</sup>the Welsh Ministers], seriously and prejudicially affect the interests of that body.

#### Textual Amendments

- F3** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 61(7)**, 325(1); [S.I. 2010/862](#), **art. 2** (with [Sch.](#))
- F19** S. 35(A1) inserted (2.12.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\)](#), **ss. 38(2)**, 90(2); [S.I. 2011/2475](#), **arts. 1(2)**, 3(c)
- F20** Words in Pt. I substituted (1.11.1998) by [1998 c. 38](#), s. 140, **Sch. 16 para. 82(1)(2)** (with [ss. 139\(2\)](#), [141\(1\)](#), [143\(2\)](#)); [S.I. 1998/2244](#), **art.5**.
- F21** Words in s. 35(1) inserted (2.12.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\)](#), **ss. 38(3)**, 90(2); [S.I. 2011/2475](#), **arts. 1(2)**, 3(c)
- F22** Words in s. 35(2) substituted (2.12.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\)](#), **ss. 38(4)**, 90(2); [S.I. 2011/2475](#), **arts. 1(2)**, 3(c)

#### Commencement Information

- I1** S. 35 wholly in force 1.4.1998; s. 35 not in force at Royal Assent see s. 232(1)-(3); s. 35(1)(2)(3)(5) in force at 1.4.1997 and s. 35(4) in force at 1.4.1998 by [S.I. 1997/618](#), **arts. 2, 3**

### *[<sup>F23</sup>Complaints about performance*

#### Textual Amendments

- F23** S. 35A and cross-heading inserted (18.10.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\)](#), **ss. 39**, 90(2); [S.I. 2011/2475](#), **arts. 1(2)**, 2(d)

### **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.]

### **[<sup>F24</sup>35B Consultation**

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



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- (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.]

**Textual Amendments**

**F24** S. 35B inserted (18.10.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\)](#), ss. 40, 90(2); S.I. 2011/2475, arts. 1(2), 2(e)

*Housing management*

**36 Issue of guidance by [<sup>F3</sup>the Welsh Ministers][<sup>F25</sup>– housing in England] .**

- (1) [<sup>F3</sup>The Welsh Ministers] may issue guidance with respect to the management of housing accommodation [<sup>F26</sup>in England ] by registered social landlords.
- (2) Guidance under [<sup>F27</sup> subsection (1) ] may, in particular, be issued with respect to—
  - (a) the housing demands for which provision should be made and the means of meeting those demands;
  - (b) the allocation of housing accommodation between individuals;
  - (c) the terms of tenancies and the principles upon which levels of rent should be determined;
  - (d) standards of maintenance and repair and the means of achieving those standards;
  - (e) the services to be provided to tenants;
  - (f) the procedures to be adopted to deal with complaints by tenants against a landlord;
  - (g) consultation and communication with tenants;
  - (h) the devolution to tenants of decisions concerning the management of housing accommodation.
  - [<sup>F28</sup>(i) the policy and procedures a landlord is required under section 218A to prepare and from time to time revise in connection with anti-social behaviour.]

<sup>F29</sup>(2A) . . . . .

[<sup>F30</sup>(3) Before issuing any guidance under this section [<sup>F3</sup>the Welsh Ministers] shall consult such bodies appearing to [<sup>F3</sup>the Welsh Ministers] to be representative of registered social landlords as [<sup>F3</sup>the Welsh Ministers] considers appropriate; and where [<sup>F3</sup>the Welsh Ministers] issues guidance under this section it shall be issued in such manner as [<sup>F3</sup>the Welsh Ministers] considers appropriate for bringing it to the notice of the landlords concerned.

<sup>F31</sup>(4) . . . . .]

- (5) Guidance issued under this section may be revised or withdrawn; and [<sup>F32</sup>subsection (3) applies] in relation to the revision of guidance as in relation to its issue.

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- (6) Guidance under this section may make different provision in relation to different cases and, in particular, in relation to different areas, different descriptions of housing accommodation and different descriptions of registered social landlord.

<sup>F33</sup>(7) . . . . .

#### Textual Amendments

- F3** Words in Pt. I substituted (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 61(7)**, 325(1); S.I. 2010/862, art. 2 (with Sch.)
- F25** Words in s. 36 heading inserted (2.12.2011) by Housing (Wales) Measure 2011 (nawm 5), s. 90(2), **Sch. para. 6**; S.I. 2011/2475, arts. 1(2), 3(k)
- F26** Words in s. 36(1) inserted (2.12.2011) by Housing (Wales) Measure 2011 (nawm 5), s. 90(2), **Sch. para. 7(a)**; S.I. 2011/2475, arts. 1(2), 3(k)
- F27** Words in s. 36(2) substituted (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), **Sch. 11 para. 13(2)**
- F28** S. 36(2)(i) inserted (30.6.2004 for E.) by Anti-social Behaviour Act 2003 (c. 38), **ss. 12(2)**, 93; S.I. 2004/1502, art. 2(a)(i)
- F29** S. 36(2A) omitted (2.12.2011) by virtue of Housing (Wales) Measure 2011 (nawm 5), s. 90(2), **Sch. para. 7(b)**; S.I. 2011/2475, arts. 1(2), 3(k)
- F30** S. 36(3)(4) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para.87** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F31** S. 36(4) repealed (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), Sch. 2 para. 90(2), **Sch. 4** (with art. 6, Sch. 3)
- F32** Words in s. 36(5) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), **Sch. 2 para. 90(3)** (with art. 6, Sch. 3)
- F33** S. 36(7) omitted (15.8.2018) by virtue of Regulation of Registered Social Landlords (Wales) Act 2018 (anaw 4), s. 19(2), **Sch. 2 para. 10**; S.I. 2018/777, art. 3(g)

#### Modifications etc. (not altering text)

- C8** S. 36(4) modified (1.12.2008) by The Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008 (S.I. 2008/2839), arts. 1(1), 3, **Sch. para. 5** (with art. 6)

#### Commencement Information

- I2** S. 36 wholly in force 1.10.1996; s. 36 not in force at Royal Assent see s. 232(1)-(3); s. 36(1)-(6) in force at 1.8.1996 by S.I. 1996/2048, **art. 2** and s. 36(7) in force at 1.10.1996 by S.I. 1996/2402, **art. 3** (with transitional provisions and savings in the Sch.)

### 37 Powers of entry.

- (1) This section applies where it appears to [<sup>F3</sup>the Welsh Ministers] that a registered social landlord may be failing to maintain or repair any premises in accordance with [<sup>F34</sup>standards set under section 33A or] guidance issued under section 36.
- (2) A person authorised by [<sup>F3</sup>the Welsh Ministers] may at any reasonable time, on giving not less than 28 days' notice of his intention to the landlord concerned, enter any such premises for the purpose of survey and examination.
- (3) Where such notice is given to the landlord, the landlord shall give the occupier or occupiers of the premises not less than seven days' notice of the proposed survey and examination.

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[<sup>F35</sup>(3A)] A landlord [<sup>F36</sup>who fails, without reasonable excuse, to give the required notice in relation to premises in Wales] commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[<sup>F37</sup>(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.]

(4) Proceedings for an offence under subsection [<sup>F38</sup>(3A) or (3B)] may be brought only by or with the consent of [<sup>F3</sup>the Welsh Ministers] or the Director of Public Prosecutions.

(5) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf.

(6) The [<sup>F39</sup>Relevant Authority] shall give a copy of any survey carried out in exercise of the powers conferred by this section to the landlord concerned.

(7) The [<sup>F39</sup>Relevant Authority] may require the landlord concerned to pay to it such amount as [<sup>F3</sup>the Welsh Ministers] may determine towards the costs of carrying out any survey under this section.

#### Textual Amendments

**F3** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2](#) (with Sch.)

**F34** Words in s. 37(1) inserted (2.12.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\), s. 90\(2\), Sch. para. 8; S.I. 2011/2475, arts. 1\(2\), 3\(k\)](#)

**F35** Words in s. 37(3) renumbered as s. 37(3A) (2.12.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\), ss. 42\(2\)\(a\), 90\(2\); S.I. 2011/2475, arts. 1\(2\), 3\(d\)](#)

**F36** Words in s. 37(3A) substituted (2.12.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\), ss. 42\(2\)\(b\), 90\(2\); S.I. 2011/2475, arts. 1\(2\), 3\(d\)](#)

**F37** S. 37(3B) inserted (2.12.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\), ss. 42\(2\)\(c\), 90\(2\); S.I. 2011/2475, arts. 1\(2\), 3\(d\)](#)

**F38** Word in s. 37(4) substituted (2.12.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\), ss. 42\(3\), 90\(2\); S.I. 2011/2475, arts. 1\(2\), 3\(d\)](#)

**F39** Words in Pt. I substituted (1.11.1998) by [1998 c. 38, s. 140, Sch. 16 para. 82\(1\)\(2\)](#) (with ss. 139(2), 141(1), 143(2)); [S.I. 1998/2244, art.5.](#)

#### Modifications etc. (not altering text)

**C9** S. 37 extended (16.9.1996) by [S.I. 1996/2402, art. 3, Sch. para. 1](#)

### 38 Penalty for obstruction of person exercising power of entry.

(1) It is an offence for a registered social landlord or any of its officers or employees to obstruct a person authorised under section 37 (powers of entry) to enter premises in the performance of anything which he is authorised by that section to do.

(2) A person who commits such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Proceedings for such an offence may be brought only by or with the consent of [<sup>F3</sup>the Welsh Ministers] or the Director of Public Prosecutions.

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#### Textual Amendments

**F3** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2 \(with Sch.\)](#)

#### Modifications etc. (not altering text)

**C10** S. 38 extended (16.9.1996) by [S.I. 1996/2402, art. 3, Sch. para. 1](#)

### *Insolvency, &c. of registered social landlord*

## 39 **Insolvency, &c. of registered social landlord: scheme of provisions.**

(1) The following sections make provision—

- (a) for notice to be given to [<sup>F3</sup>the Welsh Ministers] of any proposal to take certain steps in relation to a registered social landlord (section 40), and for further notice to be given when any such step is taken (section 41),
- (b) for a moratorium on the disposal of land, and certain other assets, held by the registered social landlord (sections 42 and 43),
- [<sup>F40</sup>(ba) for the appointment of an interim manager during a moratorium (section 43A),]
- (c) for proposals by [<sup>F3</sup>the Welsh Ministers] as to the future ownership and management of the land held by the landlord (section 44), which are binding if agreed (section 45),
- (d) for the appointment of a manager to implement agreed proposals (section 46) and as to the powers of such a manager (sections 47 and 48),
- (e) for the giving of assistance by [<sup>F3</sup>the Welsh Ministers] (section 49), and
- (f) for application to the court to secure compliance with the agreed proposals (section 50).

(2) In those sections—

“disposal” means sale, lease, mortgage, charge or any other disposition, and includes the grant of an option;

“secured creditor” means a creditor who holds a mortgage or charge (including a floating charge) over land held by the landlord or any existing or future interest of the landlord in rents or other receipts from land; and

“security” means any mortgage, charge or other security.

(3) The [<sup>F41</sup>Welsh Ministers] may make provision by order defining for the purposes of those sections what is meant by a step to enforce security over land.

Any such order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of [<sup>F42</sup>the National Assembly for Wales] .

#### Textual Amendments

**F3** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2 \(with Sch.\)](#)

**F40** S. 39(1)(ba) inserted (18.10.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\), s. 90\(2\), Sch. para. 9; S.I. 2011/2475, arts. 1\(2\), 2\(v\)](#)

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- F41** Words in s. 39(3) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 62\(a\), 325\(1\); S.I. 2010/862, art. 2 \(with Sch.\)](#)
- F42** Words in s. 39(3) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 63, 325\(1\); S.I. 2010/862, art. 2 \(with Sch.\)](#)

**40 Initial notice to be given to [F3the Welsh Ministers].**

- (1) Notice must be given to [F3the Welsh Ministers] before any of the steps mentioned below is taken in relation to a registered social landlord.

The person by whom the notice must be given is indicated in the second column.

- (2) Where the registered social landlord is [F43a registered society], the steps and the person by whom notice must be given are—

Any step to enforce any security over land held by the landlord.	The person proposing to take the step.
Presenting a petition for the winding up of the landlord.	The petitioner.
Passing a resolution for the winding up of the landlord.	The landlord.

- (3) Where the registered social landlord is [F44a company] (including a registered charity), the steps and the person by whom notice must be given are—

Any step to enforce any security over land held by the landlord.	The person proposing to take the step.
Applying for an administration order.	The applicant.
Presenting a petition for the winding up of the landlord.	The petitioner.
Passing a resolution for the winding up of the landlord.	The landlord.

- (4) Where the registered social landlord is a registered charity (other than [F44a company]), the steps and the person by whom notice must be given are—

Any step to enforce any security over land held by the landlord.	The person proposing to take the step.
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[F45](5) .....

- (6) Any step purportedly taken without the requisite notice being given under this section is ineffective.

[F46](7) Subsections (8) and (9) apply in relation to the reference in subsection (3) to applying for an administration order.

- (8) In a case where an administrator is appointed under paragraph 14 or 22 of Schedule B1 to the Insolvency Act 1986 (appointment by floating charge holder, company or directors)—

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- (a) the reference includes a reference to appointing an administrator under that paragraph, and
  - (b) in respect of an appointment under either of those paragraphs the reference to the applicant shall be taken as a reference to the person making the appointment.
- (9) In a case where a copy of a notice of intention to appoint an administrator under either of those paragraphs is filed with the court—
- (a) the reference shall be taken to include a reference to the filing of the copy of the notice, and
  - (b) in respect of the filing of a copy of a notice of intention to appoint under either of those paragraphs the reference to the applicant shall be taken as a reference to the person giving the notice.]

#### Textual Amendments

- F3** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 61(7)**, 325(1); [S.I. 2010/862](#), **art. 2** (with [Sch.](#))
- F43** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), **s. 154**, **Sch. 4 para. 56** (with [Sch. 5](#))
- F44** Words in s. 40(3)(4) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), **art. 1(2)**, **Sch. 1 para. 161(2)(b)** (with [art. 10](#))
- F45** [S. 40\(5\)](#) omitted (15.8.2018) by virtue of [The Regulation of Registered Social Landlords \(Wales\) Act 2018 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/870\)](#), **regs. 1(2)**, **3**
- F46** [S. 40\(7\)-\(9\)](#) added (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), **s. 279**, **Sch. 17 para. 51** (with [s. 249\(1\)-\(3\)](#)); [S.I. 2003/2093](#), **art. 2(1)**, **Sch. 1** (with [art. 3](#))

#### 41 Further notice to be given to [<sup>F3</sup>the Welsh Ministers].

- (1) Notice must be given to [<sup>F3</sup>the Welsh Ministers] as soon as may be after any of the steps mentioned below is taken in relation to a registered social landlord.

The person by whom the notice must be given is indicated in the second column.

- (2) Where the registered social landlord is [<sup>F43</sup>a registered society], the steps and the person by whom notice must be given are—

The taking of a step to enforce any security over land held by the landlord.	The person taking the step.
The making of an order for the winding up of the landlord.	The petitioner.
The passing of a resolution for the winding up of the landlord.	The landlord.

- (3) Where the registered social landlord is [<sup>F47</sup>a company] (including a registered charity), the steps and the person by whom notice must be given are—

The taking of a step to enforce any security over land held by the landlord.	The person taking the step.
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The making of an administration order.	The person who applied for the order.
The making of an order for the winding up of the landlord.	The petitioner.
The passing of a resolution for the winding up of the landlord.	The landlord.

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- (4) Where the registered social landlord is a registered charity (other than <sup>F47</sup>a company), the steps and the person by whom notice must be given are—

The taking of a step to enforce any security over land held by the landlord.	The person taking the step.
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- (5) Failure to give notice under this section does not affect the validity of any step taken; but the period of 28 days mentioned in section 43(1) (period after which moratorium on disposal of land, &c. ends) does not begin to run until any requisite notice has been given under this section.

<sup>F48</sup>(6) In subsection (3)—

- (a) the reference to the making of an administration order includes a reference to appointing an administrator under paragraph 14 or 22 of Schedule B1 to the Insolvency Act 1986 (administration), and
- (b) in respect of an appointment under either of those paragraphs the reference to the applicant shall be taken as a reference to the person making the appointment.]

#### Textual Amendments

- F3** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 61(7)**, 325(1); [S.I. 2010/862](#), **art. 2** (with [Sch.](#))
- F43** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), **s. 154**, **Sch. 4 para. 56** (with [Sch. 5](#))
- F47** Words in s. 41(3)(4) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), **art. 1(2)**, **Sch. 1 para. 161(2)(b)** (with [art. 10](#))
- F48** S. 41(6) added (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), **s. 279**, **Sch. 17 para. 52** (with [s. 249\(1\)-\(3\)](#)); [S.I. 2003/2093](#), **art. 2(1)**, **Sch. 1** (with [art. 3](#))

## 42 Moratorium on disposal of land, &c.

- (1) Where any of the steps mentioned in section 41 is taken in relation to a registered social landlord, there is a moratorium on the disposal of land held by the landlord.
- (2) During the moratorium the consent of <sup>F3</sup>the Welsh Ministers] under this section is required (except as mentioned below) for any disposal of land held by the landlord, whether by the landlord itself or any person having a power of disposal in relation to the land.

Consent under this section may be given in advance and may be given subject to conditions.

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- [<sup>F49</sup>(3) Consent is not required under this section for a letting of land under an occupation contract.]
- (4) A disposal made without the consent required by this section is void.
- (5) Nothing in this section prevents a liquidator from disclaiming any land held by the landlord as onerous property.
- (6) The provisions of this section apply in relation to any existing or future interest of the landlord in rent or other receipts arising from land as they apply to an interest in land.

#### Textual Amendments

- F3** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2 \(with Sch.\)](#)
- F49** [S. 42\(3\)](#) substituted (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2022 \(S.I. 2022/1166\), regs. 1\(1\), 25\(2\)](#) (with savings and transitional provisions in [S.I. 2022/1172, regs. 4-7, 19](#))

### 43 Period of moratorium.

- (1) The moratorium in consequence of the taking of any step as mentioned in section 41—
- (a) begins when the step is taken, and
  - (b) ends at the end of the period of 28 days beginning with the day on which notice of its having been taken was given to [<sup>F3</sup>the Welsh Ministers] under that section,

subject to the following provisions.

- (2) The taking of any further step as mentioned in section 41 at a time when a moratorium is already in force does not start a further moratorium or affect the duration of the existing one.
- (3) A moratorium may be extended from time to time with the consent of all the landlord's secured creditors.

Notice of any such extension shall be given by [<sup>F3</sup>the Welsh Ministers] to—

- (a) the landlord, and
  - (b) any liquidator, administrative receiver, receiver or administrator appointed in respect of the landlord or any land held by it.
- (4) If during a moratorium [<sup>F3</sup>the Welsh Ministers] considers that the proper management of the landlord's land can be secured without making proposals under section 44 (proposals as to ownership and management of landlord's land), [<sup>F3</sup>the Welsh Ministers] may direct that the moratorium shall cease to have effect.

Before making any such direction [<sup>F3</sup>the Welsh Ministers] shall consult the person who took the step which brought about the moratorium.

- (5) When a moratorium comes to an end, or ceases to have effect under subsection (4), [<sup>F3</sup>the Welsh Ministers] shall give notice of that fact to the landlord and the landlord's secured creditors.
- (6) When a moratorium comes to an end (but not when it ceases to have effect under subsection (4)), the following provisions of this section apply.



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The [<sup>F50</sup>Relevant Authority's] notice shall, in such a case, inform the landlord and the landlord's secured creditors of the effect of those provisions.

- (7) If any further step as mentioned in section 41 is taken within the period of three years after the end of the original period of the moratorium, the moratorium may be renewed with the consent of all the landlord's secured creditors (which may be given before or after the step is taken).

Notice of any such renewal shall be given by [<sup>F3</sup>the Welsh Ministers] to the persons to whom notice of an extension is required to be given under subsection (3).

- (8) If a moratorium ends without any proposals being agreed, then, for a period of three years the taking of any further step as mentioned in section 41 does not start a further moratorium except with the consent of the landlord's secured creditors as mentioned in subsection (7) above.

#### Textual Amendments

- F3** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2](#) (with [Sch.](#))
- F50** Words in Pt. I substituted (1.11.1998) by [1998 c. 38, s. 140, Sch. 16 para. 82\(1\)\(2\)](#) (with [ss. 139\(2\), 141\(1\), 143\(2\)](#)); [S.I. 1998/2244, art.5](#).

#### [<sup>F51</sup>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—
  - (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

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(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.]

#### Textual Amendments

**F51** S. 43A inserted (18.10.2011) by [Housing \(Wales\) Measure 2011 \(nawm 5\)](#), ss. 83, 90(2); S.I. 2011/2475, arts. 1(2), 2(s)

#### 44 Proposals as to ownership and management of landlord's land.

- (1) During the moratorium (see sections 42 and 43) [F3 the Welsh Ministers] may make proposals as to the future ownership and management of the land held by the registered social landlord, designed to secure the continued proper management of the landlord's land by a registered social landlord.
- (2) In drawing up its proposals [F3 the Welsh Ministers]—
- (a) shall consult the landlord and, so far as is practicable, its tenants, and
  - (b) shall have regard to the interests of all the landlord's creditors, both secured and unsecured.
- (3) The [F52 Relevant Authority] shall also consult—
- (a) where the landlord is [F43 a registered society], the appropriate registrar, and
  - (b) where the landlord is a registered charity, the [F53 Charity Commission] .
- (4) No proposals shall be made under which—
- (a) a preferential debt of the landlord is to be paid otherwise than in priority to debts which are not preferential debts, F54 ...
  - [F55 (aa) an ordinary preferential debt of the landlord is to be paid otherwise than in priority to any secondary preferential debts that the landlord may have,]
  - (b) a preferential creditor is to be paid a smaller proportion of [F56 an ordinary preferential debt] than another preferential creditor, except with the concurrence of the creditor concerned F57 [F58 ...
  - (c) a preferential creditor is to be paid a smaller proportion of a secondary preferential debt than another preferential creditor, except with the concurrence of the creditor concerned.] F59 or
  - (d) if the landlord is a relevant financial institution—
    - (i) an ordinary non-preferential debt of the landlord is to be paid otherwise than in priority to any secondary non-preferential debts of the landlord,
    - (ii) a secondary non-preferential debt of the landlord is to be paid otherwise than in priority to any tertiary non-preferential debts of the landlord, or
    - (iii) a secondary non-preferential creditor is to be paid a smaller proportion of a secondary non-preferential debt of the landlord than another secondary non-preferential creditor, except with the concurrence of the creditor concerned.]

In this subsection references to preferential debts [F60, ordinary preferential debts, secondary preferential debts] [F61, ordinary non-preferential debts, secondary non-

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preferential debts, tertiary non-preferential debts, relevant financial institution] and preferential creditors have the same meaning as in the <sup>M1</sup>Insolvency Act 1986.

- (5) So far as practicable no proposals shall be made which have the effect that unsecured creditors of the landlord are in a worse position than they would otherwise be.
- (6) Where the landlord is a charity the proposals shall not require the landlord to act outside the terms of its trusts, and any disposal of housing accommodation occupied under a tenancy or licence from the landlord must be to another charity whose objects appear to [<sup>F3</sup>the Welsh Ministers] to be, as nearly as practicable, akin to those of the landlord.
- (7) The [<sup>F52</sup>Relevant Authority] shall serve a copy of its proposals on—
- (a) the landlord and its officers,
  - (b) the secured creditors of the landlord, and
  - (c) any liquidator, administrator, administrative receiver or receiver appointed in respect of the landlord or its land;

and it shall make such arrangements as it considers appropriate to see that the members, tenants and unsecured creditors of the landlord are informed of the proposals.

#### Textual Amendments

- F3** Words in Pt. I substituted (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), ss. 61(7), 325(1); S.I. 2010/862, art. 2 (with Sch.)
- F43** Words in Act substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, Sch. 4 para. 56 (with Sch. 5)
- F52** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 82(1)(2) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art.5.
- F53** Words in s. 44(3) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 187; S.I. 2007/309, art. 2, Sch.
- F54** Word in s. 44(4)(a) omitted (1.1.2015) by virtue of The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), 29(2)(a) (with art. 3)
- F55** S. 44(4)(aa) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), 29(2)(b) (with art. 3)
- F56** Words in s. 44(4)(b) substituted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), 29(2)(c) (with art. 3)
- F57** Word in s. 44(4)(b) omitted (19.12.2018) by virtue of The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), 39(2) (with art. 3)
- F58** S. 44(4)(c) and word inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), 29(2)(d) (with art. 3)
- F59** S. 44(4)(d) and word inserted (19.12.2018) by The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), 39(3) (with art. 3)
- F60** Words in s. 44(4) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), 29(2)(e) (with art. 3)
- F61** Words in s. 44(4) inserted (19.12.2018) by The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), 39(4) (with art. 3)

#### Modifications etc. (not altering text)

- C11** S. 44 modified (28.12.2020 until IP completion day when the amending provision ceases to have effect in accordance with reg. 1(4) of the amending S.I.) by The Bank Recovery and Resolution (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1350), regs. 1(4), 123 (with reg. 108)

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### Marginal Citations

**M1** 1986 c. 45.

## 45 Effect of agreed proposals.

- (1) The following provisions apply if proposals made by <sup>F3</sup>the Welsh Ministers] under section 44 are agreed, with or without modifications, by all the secured creditors of the registered social landlord.
- (2) Once agreed the proposals are binding on <sup>F3</sup>the Welsh Ministers], the landlord, all the landlord's creditors (whether secured or unsecured) and any liquidator, administrator, administrative receiver or receiver appointed in respect of the landlord or its land.
- (3) It is the duty of—
  - (a) the members of the committee where the landlord is <sup>F43</sup>a registered society],
  - (b) the directors where the landlord is <sup>F62</sup>a company (including a company that is a registered charity)] , and
  - (c) the trustees where the landlord is a charitable trust,
 to co-operate in the implementation of the proposals.

This does not mean that they have to do anything contrary to any fiduciary or other duty owed by them.

- (4) The <sup>F63</sup>Relevant Authority] shall serve a copy of the agreed proposals on—
  - (a) the landlord and its officers,
  - (b) the secured creditors of the landlord, and
  - (c) any liquidator, administrator, administrative receiver or receiver appointed in respect of the landlord or its land, and
  - (d) where the landlord is <sup>F43</sup>a registered society] or registered charity, the <sup>F64</sup>Financial Conduct Authority] or the <sup>F65</sup>Charity Commission] , as the case may be;

and it shall make such arrangements as it considers appropriate to see that the members, tenants and unsecured creditors of the landlord are informed of the proposals.

- (5) The proposals may subsequently be amended with the consent of the <sup>F63</sup>Relevant Authority] and all the landlord's secured creditors.

Section 44(2) to (7) and subsections (2) to (4) above apply in relation to the amended proposals as in relation to the original proposals.

### Textual Amendments

- F3** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 61(7)**, 325(1); [S.I. 2010/862](#), **art. 2** (with [Sch.](#))
- F43** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), **s. 154**, **Sch. 4 para. 56** (with [Sch. 5](#))
- F62** Words in s. 45(3)(b) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), **art. 1(2)**, **Sch. 1 para. 161(4)** (with [art. 10](#))
- F63** Words in Pt. I substituted (1.11.1998) by [1998 c. 38](#), **s. 140**, **Sch. 16 para. 82(1)(2)** (with [ss. 139\(2\)](#), [141\(1\)](#), [143\(2\)](#)); [S.I. 1998/2244](#), **art. 5**.

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- F64** Words in s. 45(4)(d) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), Sch. 11 para. 5(1)(2)(d) (with Sch. 12)
- F65** Words in s. 45(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 188**; S.I. 2007/309, art. 2, Sch.

#### 46 Appointment of manager to implement agreed proposals.

- (1) Where proposals agreed as mentioned in section 45 so provide, [<sup>F3</sup>the Welsh Ministers] may by order <sup>F66</sup> . . . appoint a manager to implement the proposals or such of them as are specified in the order.
- (2) If the landlord is a registered charity, [<sup>F3</sup>the Welsh Ministers] shall give notice to the [<sup>F67</sup>Charity Commission] of the appointment.
- (3) Where proposals make provision for the appointment of a manager, they shall also provide for the payment of his reasonable remuneration and expenses.
- (4) The [<sup>F68</sup>Relevant Authority] may give the manager directions in relation to the carrying out of his functions.

[<sup>F69</sup>(4A) The Welsh Ministers may amend or revoke any directions given by them.]

- (5) The manager may apply to the High Court for directions in relation to any particular matter arising in connection with the carrying out of his functions.

A direction of the court supersedes any direction of [<sup>F3</sup>the Welsh Ministers] in respect of the same matter.

- (6) If a vacancy occurs by death, resignation or otherwise in the office of manager, [<sup>F3</sup>the Welsh Ministers] may by further order <sup>F66</sup> . . . fill the vacancy.

[<sup>F70</sup>(7) An order under this section—

- (a) if made by the Housing Corporation, shall be made under its seal, and
- (b) [<sup>F71</sup>An order made by] the [<sup>F72</sup>Welsh Ministers] , [<sup>F73</sup>under this section] shall be made in writing.]

#### Textual Amendments

- F3** Words in Pt. I substituted (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 61(7)**, 325(1); S.I. 2010/862, art. 2 (with Sch.)
- F66** Words in s. 46(1)(6) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 88(2), **Sch. 18 Pt.VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F67** Words in s. 46(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 189**; S.I. 2007/309, art. 2, Sch.
- F68** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F69** S. 46(4A) inserted (18.10.2011) by Housing (Wales) Measure 2011 (nawm 5), s. 90(2), **Sch. para. 10**; S.I. 2011/2475, arts. 1(2), 2(v)
- F70** S. 46(7) inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 88(3)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F71** Words in s. 46(7)(b) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), **Sch. 2 para. 91(a)** (with art. 6, Sch. 3)
- F72** Words in s. 46(7)(b) substituted (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 62(a)**, 325(1); S.I. 2010/862, art. 2 (with Sch.)

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**F73** Words in s. 46(7)(b) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 91(b)** (with art. 6, Sch. 3)

**Modifications etc. (not altering text)**

**C12** S. 46(7) modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), arts. 1(1), 3, **Sch. para. 5** (with art. 6)

**47 Powers of the manager.**

- (1) An order under section 46(1) shall confer on the manager power generally to do all such things as are necessary for carrying out his functions.
- (2) The order may include the following specific powers—
  - (1) Power to take possession of the land held by the landlord and for that purpose to take any legal proceedings which seem to him expedient.
  - (2) Power to sell or otherwise dispose of the land by public auction or private contract.
  - (3) Power to raise or borrow money and for that purpose to grant security over the land.
  - (4) Power to appoint a solicitor or accountant or other professionally qualified person to assist him in the performance of his functions.
  - (5) Power to bring or defend legal proceedings relating to the land in the name and on behalf of the landlord.
  - (6) Power to refer to arbitration any question affecting the land.
  - (7) Power to effect and maintain insurance in respect of the land.
  - (8) Power where the landlord is a body corporate to use the seal of the body corporate for purposes relating to the land.
  - (9) Power to do all acts and to execute in the name and on behalf of the landlord any deed, receipt or other document relating to the land.
  - (10) Power to appoint an agent to do anything which he is unable to do for himself or which can more conveniently be done by an agent, and power to employ and dismiss any employees.
  - (11) Power to do all such things (including the carrying out of works) as may be necessary in connection with the management or transfer of the land.
  - (12) Power to make any payment which is necessary or incidental to the performance of his functions.
  - (13) Power to carry on the business of the landlord so far as relating to the management or transfer of the land.
  - (14) Power to grant or accept a surrender of a lease or tenancy of any of the land, and to take a lease or tenancy of any property required or convenient for the landlord's housing activities.
  - (15) Power to make any arrangement or compromise on behalf of the landlord in relation to the management or transfer of the land.
  - (16) Power to do all other things incidental to the exercise of any of the above powers.

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- (3) In carrying out his functions the manager acts as the landlord's agent and he is not personally liable on a contract which he enters into as manager.
- (4) A person dealing with the manager in good faith and for value is not concerned to inquire whether the manager is acting within his powers.
- (5) The manager shall, so far as practicable, consult the landlord's tenants about any exercise of his powers which is likely to affect them and inform them about any such exercise of his powers.

#### Modifications etc. (not altering text)

- C13** S. 47(2) applied (with modifications) (23.12.2011) by [The Legal Services Act 2007 \(Designation as a Licensing Authority\) \(No. 2\) Order 2011 \(S.I. 2011/2866\)](#), art. 1(2), **Sch. 2**

### 48 Powers of the manager: transfer of engagements.

- (1) An order under section 46(1) may, where the landlord is [<sup>F43</sup>a registered society], give the manager power to make and execute on behalf of the society an instrument transferring the engagements of the society.
- (2) Any such instrument has the same effect as a transfer of engagements under [<sup>F74</sup>section 110 or 112 of the Co-operative and Community Benefit Societies Act 2014] (transfer of engagements by special resolution to another society or a company).  
[<sup>F75</sup>In particular, it does not prejudice any right of a creditor of the society.]
- (3) A copy of the instrument, signed by the manager, shall be sent to the [<sup>F76</sup>[<sup>F77</sup>Financial Conduct Authority] and registered by it]; and until that copy is so registered the instrument shall not take effect.
- (4) It is the duty of the manager to send a copy for registration within 14 days from the day on which the instrument is executed; but this does not invalidate registration after that time.

#### Textual Amendments

- F43** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, **Sch. 4 para. 56** (with Sch. 5)
- F74** Words in s. 48(2) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, **Sch. 4 para. 59(2)** (with Sch. 5)
- F75** Words in s. 48(2) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, **Sch. 4 para. 59(3)** (with Sch. 5)
- F76** Words in s. 48(3) substituted (1.12.2001) by [S.I. 2001/3649](#), **arts. 1**, 355
- F77** Words in s. 48(3) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 11 para. 5(1)(2)(e)** (with Sch. 12)

### 49 Assistance by [<sup>F3</sup>the Welsh Ministers].

- (1) The [<sup>F78</sup>Relevant Authority] may give such assistance as it thinks fit—
  - (a) to the landlord, for the purpose of preserving the position pending the making of and agreement to proposals;

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- (b) to the landlord or a manager appointed under section 46, for the purpose of carrying out any agreed proposals.
- (2) The [<sup>F78</sup>Relevant Authority] may, in particular—
- (a) lend staff;
  - (b) pay or secure payment of the manager’s reasonable remuneration and expenses;
  - (c) give such financial assistance as appears to [<sup>F3</sup>the Welsh Ministers] to be appropriate.

<sup>F79</sup>(3) .....

#### Textual Amendments

- F3** Words in Pt. I substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 61\(7\), 325\(1\); S.I. 2010/862, art. 2 \(with Sch.\)](#)
- F78** Words in Pt. I substituted (1.11.1998) by [1998 c. 38, s. 140, Sch. 16 para. 82\(1\)\(2\) \(with ss. 139\(2\), 141\(1\), 143\(2\)\); S.I. 1998/2244, art.5.](#)
- F79** S. 49(3) repealed (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\), art. 1\(2\), Sch. 2 para. 92, Sch. 4 \(with art. 6, Sch. 3\)](#)

#### Modifications etc. (not altering text)

- C14** S. 49(3) modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\), arts. 1\(1\), 3, Sch. para. 5 \(with art. 6\)](#)

## 50 Application to court to secure compliance with agreed proposals.

- (1) The landlord or any creditor of the landlord may apply to the High Court on the ground that an action of the manager appointed under section 46 is not in accordance with the agreed proposals.

On such an application the court may confirm, reverse or modify any act or decision of the manager, give him directions or make such other order as it thinks fit.

- (2) The [<sup>F80</sup>Relevant Authority] or any other person bound by agreed proposals may apply to the High Court on the ground that any action, or proposed action, by another person bound by the proposals is not in accordance with those proposals.

On such an application the court may—

- (a) declare any such action to be ineffective, and
- (b) grant such relief by way of injunction, damages or otherwise as appears to the court appropriate.

#### Textual Amendments

- F80** Words in Pt. I substituted (1.11.1998) by [1998 c. 38, s. 140, Sch. 16 para. 82\(1\)\(2\) \(with ss. 139\(2\), 141\(1\), 143\(2\)\); S.I. 1998/2244, art.5.](#)



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**Changes and effects yet to be applied to :**

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 124(1A) inserted by [2016 c. 22 Sch. 7 para. 20\(2\)](#)
- s. 124(6) inserted by [2016 c. 22 Sch. 7 para. 20\(6\)](#)
- s. 124A124B inserted by [2016 c. 22 Sch. 7 para. 21](#)
- s. 125A(3A)(3B) inserted by [2016 c. 22 Sch. 7 para. 22\(3\)](#)
- s. 130A inserted by [2016 c. 22 Sch. 8 para. 7](#)
- s. 133(1A) inserted by [2016 c. 22 Sch. 8 para. 9\(2\)](#)
- s. 143J(3A) inserted by [2016 c. 22 Sch. 8 para. 13\(2\)](#)
- s. 143J(7)(a) words omitted by [S.I. 2022/1166 reg. 25\(11\)\(b\)](#) (This amendment comes into force immediately after 2016 c. 22, s. 120 and Sch. 8 para. 13(3) come into force)
- s. 143GA143GB inserted by [2016 c. 22 Sch. 8 para. 10](#)
- s. 143MA(3A)-(3D) inserted by [2016 c. 22 Sch. 7 para. 27\(3\)](#)
- s. 143MB inserted by [2016 c. 22 Sch. 7 para. 28](#)