



Housing and Regeneration Act 2008

2008 CHAPTER 17

PART 2

REGULATION OF SOCIAL HOUSING

CHAPTER 7

ENFORCEMENT POWERS

Suspension and removal of officers [^{F1}of non-profit registered providers]

Textual Amendments

- F1** Words in cross-heading before s. 259 inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 73](#)

259 Suspension during inquiry

- (1) The regulator may make an order under this section if—
 - (a) an inquiry under section 206 is in progress in respect of a non-profit registered provider, and
 - (b) either of the following cases applies.
- (2) Case 1 applies if the regulator has reasonable grounds for believing—
 - (a) that the affairs of the registered provider have been mismanaged, and
 - (b) that the interests of tenants of the registered provider, or its assets, require protection.
- (3) Case 2 applies if as a result of an inquirer's interim report under section 207 the regulator is satisfied that the affairs of the registered provider have been mismanaged.

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(4) The regulator may by order suspend any officer, employee or agent of the registered provider who it thinks has contributed to the failure or mismanagement.

^{F2}(5)

(6) An order ceases to have effect at the end of the period of 6 months beginning with the day on which the inquirer's final report under section 207 is made.

(7) But the regulator may revoke an order before the end of that period.

[^{F3}(7A) If the regulator makes an order, the regulator must—

- (a) take all reasonable steps to notify the person suspended, and
- (b) notify the registered provider.]

(8) The regulator shall notify the Charity Commission if it suspends an officer, employee or agent of a registered charity.

Textual Amendments

F2 S. 259(5) omitted (20.9.2023) by virtue of [Social Housing \(Regulation\) Act 2023 \(c. 36\), ss. 33\(d\), 46\(3\)](#); S.I. 2023/1001, reg. 2(n)

F3 S. 259(7A) inserted (20.9.2023) by [Social Housing \(Regulation\) Act 2023 \(c. 36\), s. 46\(3\), Sch. 4 para. 15](#); S.I. 2023/1001, reg. 2(x)

Commencement Information

I1 S. 259 in force at 1.4.2010 by [S.I. 2010/862, art. 2](#) (with Sch.)

260 Removal or suspension following inquiry

(1) This section applies if as a result of an inquiry under section 206 or an audit under section 210 the regulator is satisfied that the affairs of a non-profit registered provider have been mismanaged.

(2) The regulator may by order remove any officer, employee or agent of the registered provider who it thinks has contributed to the failure or mismanagement.

(3) Pending a decision whether to remove an officer, employee or agent, the regulator may by order suspend the person for a specified period of up to 6 months.

^{F4}(4)

(5) Before making an order the regulator must take all reasonable steps to give at least 14 days' notice to—

- (a) the person, and
- (b) the registered provider.

[^{F5}(5A) If the regulator makes an order, the regulator must—

- (a) take all reasonable steps to notify the person removed or suspended, and
- (b) notify the registered provider.]

(6) The regulator shall notify the Charity Commission if it removes or suspends an officer, employee or agent of a registered charity.

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Textual Amendments

- F4** S. 260(4) omitted (20.9.2023) by virtue of [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), [ss. 33\(e\)](#), [46\(3\)](#); [S.I. 2023/1001](#), [reg. 2\(n\)](#)
- F5** S. 260(5A) inserted (20.9.2023) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), [s. 46\(3\)](#), [Sch. 4 para. 16](#); [S.I. 2023/1001](#), [reg. 2\(x\)](#)

Commencement Information

- I2** S. 260 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

261 Suspension under section 259 or 260: supplemental

- (1) This section applies where the regulator suspends an officer, employee or agent of a registered provider under section 259 or 260.
- (2) The regulator may give directions to the registered provider about—
 - (a) the performance of the suspended person's functions, and
 - (b) any other matter arising from the suspension.
- (3) The regulator may appoint a person to perform the suspended person's functions.

Commencement Information

- I3** S. 261 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

262 Disqualification of removed person

- (1) A person is disqualified from acting as an officer of a registered provider if the person has been removed under—
 - (a) section 260, or
 - (b) paragraph 24(2)(a) of Schedule 1 to the Housing Act 1996 (c. 52), section 30(1)(a) of the Housing Associations Act 1985 (c. 69) or section 20(1)(a) of the Housing Act 1974 (c. 44) (other similar provisions).
- (2) The regulator may waive a disqualification either generally or in relation to a particular registered provider or class of registered providers.
- (3) A waiver may be granted only on an application by the disqualified person.
- (4) The regulator shall notify a person whose disqualification is waived.
- (5) If a disqualified person acts as an officer of a registered provider, the person's acts are not invalid by reason only of the disqualification.

Commencement Information

- I4** S. 262 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

263 Register of disqualified persons

- (1) The regulator shall maintain a register of persons disqualified under section 262.

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- (2) The register must show details of any waivers.
- (3) The regulator shall make the register available for inspection by the public.

Commencement Information

I5 S. 263 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

264 Acting while disqualified: offence

- (1) It is an offence for a person to act as an officer of a registered provider in respect of which the person is disqualified under section 262.
- (2) A person guilty of an offence is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding [^{F6}the general limit in a magistrates' court] or a fine ^{F7}... or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (3) Proceedings for an offence may be brought only by or with the consent of—
 - (a) the regulator, or
 - (b) the Director of Public Prosecutions.
- (4) In relation to an offence committed before [^{F8}2 May 2022] the reference in subsection (2)(a) to [^{F9}the general limit in a magistrates' court] shall have effect as if it were a reference to 6 months.

Textual Amendments

- F6** Words in s. 264(2)(a) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023](#) (S.I. 2023/149), regs. 1(2), 2(1), [Sch. Pt. 1 table](#)
- F7** Words in s. 264(2)(a) omitted (20.9.2023) by virtue of [Social Housing \(Regulation\) Act 2023](#) (c. 36), s. 46(3), [Sch. 5 para. 38](#); S.I. 2023/1001, reg. 2(y)(x)
- F8** Words in s. 264(4) substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022](#) (S.I. 2022/500), regs. 1(2), 5(1), [Sch. Pt. 1](#)
- F9** Words in s. 264(4) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023](#) (S.I. 2023/149), regs. 1(2), 2(1), [Sch. Pt. 1 table](#)

Commencement Information

I6 S. 264 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

265 Acting while disqualified: other consequences

- (1) This section applies where the regulator is satisfied that a person—
 - (a) has acted as an officer of a registered provider in respect of which the person is disqualified under section 262, and

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- (b) in doing so, has received payments or other benefits from the registered provider.
- (2) The regulator may require the person to repay the sum or, as the case may be, a specified amount representing the whole or part of the value of the benefit.
- (3) If a person fails to comply with a requirement the registered provider may recover the sum or specified amount as a debt.

Commencement Information

I7 S. 265 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

266 Removal of officers

- (1) The regulator may by order remove an officer of a non-profit registered provider if a Case listed in this section applies to the officer.
- (2) Case 1 applies to a person who has been [^{F10}made] bankrupt.
- (3) Case 2 applies to a person who has made an arrangement with creditors.
- (4) Case 3 applies to a person who is subject to a disqualification order or a disqualification undertaking under the Company Directors Disqualification Act 1986 (c. 46) or equivalent legislation in Northern Ireland.
- (5) Case 4 applies to a person who is subject to an order under section 429(2) of the Insolvency Act 1986 (c. 45) (disabilities on revocation of county court administration order).
- (6) Case 5 applies to a person who is disqualified under [^{F11}section 178 of the Charities Act 2011] from being a charity trustee.
- (7) Case 6 applies to a person who is incapable of acting by reason of mental disorder.
- (8) Case 7 applies to a person who is impeding the proper management of the registered provider by reason of absence or failure to act.

Textual Amendments

- F10** Word in [s. 266\(2\)](#) substituted (6.4.2016) by [The Enterprise and Regulatory Reform Act 2013 \(Consequential Amendments\) \(Bankruptcy\) and the Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/481\)](#), reg. 1, [Sch. 1 para. 18](#)
- F11** Words in [s. 266\(6\)](#) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 134](#) (with [s. 20\(2\)](#), [Sch. 8](#))

Commencement Information

I8 S. 266 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

267 Section 266: supplemental

- (1) Before making an order under section 266 in respect of an officer the regulator must take all reasonable steps to give at least 14 days' notice to—

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- (a) the officer, and
- (b) the registered provider.

[^{F12}(1A) If the regulator makes an order, the regulator must—

- (a) take all reasonable steps to notify the person removed, and
- (b) notify the registered provider.]

[^{F13}(1B) The regulator must notify the Charity Commission if it makes an order removing an officer of a registered charity.]

^{F14}(2)

Textual Amendments

- F12** S. 267(1A) inserted (20.9.2023) by Social Housing (Regulation) Act 2023 (c. 36), s. 46(3), **Sch. 4 para. 17**; S.I. 2023/1001, reg. 2(x)
- F13** S. 267(1B) inserted (20.9.2023) by Social Housing (Regulation) Act 2023 (c. 36), **ss. 34(4)**, 46(3); S.I. 2023/1001, reg. 2(o)
- F14** S. 267(2) omitted (20.9.2023) by virtue of Social Housing (Regulation) Act 2023 (c. 36), **ss. 33(f)**, 46(3); S.I. 2023/1001, reg. 2(n)

Commencement Information

- I9** S. 267 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

268 Appeal against removal or suspension

[^{F15}(1)] A person removed or suspended under section 259, 260 or 266 may appeal to the High Court.

[^{F16}(2) An appeal under this section must be brought within the period of 28 days beginning with the day on which the registered provider concerned is notified of the removal or suspension.]

Textual Amendments

- F15** S. 268 renumbered as s. 268(1) (20.9.2023) by Social Housing (Regulation) Act 2023 (c. 36), s. 46(3), **Sch. 4 para. 18(a)**; S.I. 2023/1001, reg. 2(x)
- F16** S. 268(2) inserted (20.9.2023) by Social Housing (Regulation) Act 2023 (c. 36), s. 46(3), **Sch. 4 para. 18(b)**; S.I. 2023/1001, reg. 2(x)

Commencement Information

- I10** S. 268 in force at 1.4.2010 by S.I. 2010/862, **art. 2** (with Sch.)

269 Appointment of new officers

- (1) The regulator may by order appoint a person as an officer of a non-profit registered provider—
- (a) to replace an officer removed by order under section 266,
 - (b) where there are no officers, or

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- (c) if the regulator thinks an additional officer is necessary [^{F17}to ensure that the registered provider's affairs are managed in accordance with legal requirements (imposed by or under an Act or otherwise)].
- (2) The regulator may appoint more than a minority of the officers of a registered provider only if—
- (a) the provider has fewer officers than required by its constitution, or
 - (b) its constitution does not specify a minimum number of officers.
- (3) Subsection (1) overrides any restriction on eligibility or numbers of officers imposed by the body's constitution.
- (4) An order appointing an officer shall specify the period for which, and the terms on which, the office is to be held; but—
- (a) ^{F18}... the regulator may by order renew the appointment [^{F19}(on any number of occasions)], and
 - (b) the officer may resign or retire in accordance with the registered provider's constitution.
- (5) An officer appointed by order has the same rights, powers and obligations as an officer appointed under the registered provider's constitution.
- (6) The regulator may exercise the power in subsection (1) in respect of a registered charity only if—
- ^{F20}(a)
 - (b) the regulator [^{F21} notified the Charity Commission of its intention to do so].

Textual Amendments

- F17** Words in s. 269(1)(c) substituted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 4 para. 37](#); S.I. 2017/75, reg. 4
- F18** Words in s. 269(4)(a) omitted (20.9.2023) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 3 para. 18\(e\)\(i\)](#); S.I. 2023/1001, [reg. 2\(w\)\(ii\)](#)
- F19** Words in s. 269(4)(a) inserted (20.9.2023) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 3 para. 18\(e\)\(ii\)](#); S.I. 2023/1001, [reg. 2\(w\)\(ii\)](#)
- F20** S. 269(6)(a) omitted (20.9.2023) by virtue of [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), [ss. 33\(g\)](#), 46(3); S.I. 2023/1001, [reg. 2\(n\)](#)
- F21** Words in s. 269(6)(b) substituted (20.9.2023) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), [ss. 34\(5\)](#), 46(3); S.I. 2023/1001, [reg. 2\(o\)](#)

Commencement Information

- I11** S. 269 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with Sch.)

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Changes and effects yet to be applied to :

- s. 259 heading word omitted by 2023 c. 36 Sch. 5 para. 36

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

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

- s. 14(6A) inserted by 2023 c. 55 s. 138
- s. 107(2A) inserted by 2023 c. 36 s. 3(2)(c)
- s. 107(4A)(4B) inserted by 2023 c. 36 s. 3(2)(f)
- s. 107(6A) inserted by 2023 c. 36 s. 3(2)(i)
- s. 115(6A) inserted by 2023 c. 36 s. 8(d)
- s. 117(1A) inserted by 2023 c. 36 s. 4(3)
- s. 117(4A) inserted by 2023 c. 36 s. 4(5)
- s. 126A-126D inserted by 2023 c. 36 s. 10(2)
- s. 146(2B) inserted by 2023 c. 36 s. 12(3)(e)
- s. 153(1)(ba) inserted by 2023 c. 36 s. 12(6)(a)
- s. 153(1A) inserted by 2023 c. 36 s. 12(6)(b)
- s. 154(2)(ab) inserted by 2023 c. 36 Sch. 1 para. 18
- s. 161A inserted by 2023 c. 36 s. 18(2)
- s. 163A applied (with modifications by S.I. 2023/1311 reg. 9)
- s. 163A inserted by 2023 c. 36 s. 17(3)
- s. 163B inserted by 2023 c. 36 s. 18(3)
- s. 169CA inserted by 2023 c. 36 s. 19(4)
- s. 169CB-169CD and cross-heading inserted by 2023 c. 36 s. 20(2)
- s. 169ZA inserted by 2023 c. 36 Sch. 5 para. 14
- s. 199(9) inserted by 2023 c. 36 s. 28(2)(c)
- s. 199A-199B inserted by 2023 c. 36 s. 28(3)
- s. 200(4A) inserted by 2023 c. 36 s. 28(4)(d)
- s. 201A inserted by 2023 c. 36 s. 29(2)
- s. 203A inserted by 2023 c. 36 s. 30(4)
- s. 215(1A) inserted by 2023 c. 36 s. 29(3)
- s. 218(2)(e) inserted by 2023 c. 36 Sch. 5 para. 26(b)
- s. 218A-218D and cross-heading inserted by 2023 c. 36 s. 31(2)
- s. 220(11B) inserted by 2023 c. 36 s. 10(3)
- s. 220(11D)(11E) inserted by 2023 c. 36 s. 31(3)
- s. 225A-225H and cross-heading inserted by 2023 c. 36 s. 32
- s. 227(7B) inserted by 2023 c. 36 s. 10(4)
- s. 227(7D)(7E) inserted by 2023 c. 36 s. 31(4)
- s. 237(5)(6) inserted by 2023 c. 36 s. 31(5)
- s. 247(1)(c) and word inserted by 2023 c. 36 s. 31(6)
- s. 247(1)(ab)(ac) inserted by 2023 c. 36 s. 10(5)
- s. 249(1)(c) and word inserted by 2023 c. 36 Sch. 3 para. 7(b)
- s. 251(1)(c) and word inserted by 2023 c. 36 s. 31(7)
- s. 251(1)(ab)(ac) inserted by 2023 c. 36 s. 10(6)
- s. 252(2A) inserted by 2023 c. 36 Sch. 3 para. 9(b)
- s. 252A(2)(c)(d) inserted by 2023 c. 36 s. 10(7)(b)
- s. 252A(2)(e) inserted by 2023 c. 36 Sch. 3 para. 10(b)
- s. 252A(2)(f) and word inserted by 2023 c. 36 s. 31(8)
- s. 253(1)(c) and word inserted by 2023 c. 36 Sch. 3 para. 11(b)

- s. 255(1)(c) and word inserted by 2023 c. 36 Sch. 3 para. 12(b)
- s. 259(3A) inserted by 2023 c. 36 Sch. 3 para. 15(d)
- s. 266(9) inserted by 2023 c. 36 Sch. 3 para. 17(b)
- s. 269(1)(ba)(bb) inserted by 2023 c. 36 Sch. 3 para. 18(c)
- s. 269(1A) inserted by 2023 c. 36 Sch. 3 para. 18(d)