



# Housing and Planning Act 2016

## 2016 CHAPTER 22

### PART 4

#### SOCIAL HOUSING IN ENGLAND

### CHAPTER 5

#### INSOLVENCY OF REGISTERED PROVIDERS OF SOCIAL HOUSING

#### *Housing administration*

#### **95 Housing administration order: providers of social housing in England**

- (1) In this Chapter “housing administration order” means an order which—
  - (a) is made by the court in relation to a private registered provider of social housing that is—
    - (i) a company,
    - (ii) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014, or
    - (iii) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011, and
  - (b) directs that, while the order is in force, the provider's affairs, business and property are to be managed by a person appointed by the court.
- (2) The person appointed for the purposes of the housing administration order is referred to in this Chapter as the “housing administrator”.
- (3) In relation to a housing administration order applying to a registered provider that is a foreign company, the reference in subsection (1)(b) to the provider's affairs, business and property is a reference to its UK affairs, business and property.

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**Commencement Information**

**II** S. 95 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

**96 Objectives of housing administration**

- (1) A housing administrator has two objectives—
  - (a) Objective 1: normal administration (see section 97), and
  - (b) Objective 2: keeping social housing in the regulated sector (see section 98).
- (2) Objective 1 takes priority over Objective 2 (but the housing administrator must, so far as possible, work towards both objectives).
- (3) It follows that, in pursuing Objective 2, the housing administrator must not do anything that would result in a worse distribution to creditors than would be the case if the administrator did not need to pursue Objective 2.
- (4) A reference in this Chapter to the objectives of a housing administration is to the objectives to be pursued by the housing administrator.

**Commencement Information**

**I2** S. 96 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

**97 Objective 1: normal administration**

- (1) Objective 1 is to—
  - (a) rescue the registered provider as a going concern,
  - (b) achieve a better result for the registered provider's creditors as a whole than would be likely if the registered provider were wound up (without first being in housing administration), or
  - (c) realise property in order to make a distribution to one or more secured or preferential creditors.
- (2) The housing administrator must aim to achieve Objective 1(a) unless the housing administrator thinks—
  - (a) that it is not reasonably practicable to achieve it, or
  - (b) that Objective 1(b) would achieve a better result for the registered provider's creditors as a whole.
- (3) The housing administrator may aim to achieve Objective 1(c) only if—
  - (a) the housing administrator thinks that it is not reasonably practicable to achieve Objective 1(a) or (b), and
  - (b) the housing administrator does not unnecessarily harm the interests of the registered provider's creditors as a whole.
- (4) In pursuing Objective 1(a), (b) or (c) the housing administrator must act in the interests of the registered provider's creditors as a whole so far as consistent with that Objective.

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**Commencement Information**

**I3** S. 97 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

**98 Objective 2: keeping social housing in the regulated sector**

- (1) Objective 2 is to ensure that the registered provider's social housing remains in the regulated housing sector.
- (2) For this purpose, social housing remains in the regulated housing sector for so long as it is owned by a private registered provider.

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**Commencement Information**

**I4** S. 98 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

**99 Applications for housing administration orders**

- (1) An application for a housing administration order may be made only—
  - (a) by the Secretary of State, or
  - (b) with the consent of the Secretary of State, by the Regulator of Social Housing.
- (2) The applicant for a housing administration order in relation to a registered provider must give notice of the application to—
  - (a) every person who has appointed an administrative receiver of the provider,
  - (b) every person who is or may be entitled to appoint an administrative receiver of the registered provider,
  - (c) every person who is or may be entitled to make an appointment in relation to the registered provider under paragraph 14 of Schedule B1 to the Insolvency Act 1986 (appointment of administrators by holders of floating charges), and
  - (d) any other persons specified by housing administration rules.
- (3) The notice must be given as soon as possible after the making of the application.
- (4) In this section “administrative receiver” means—
  - (a) an administrative receiver within the meaning given by section 251 of the Insolvency Act 1986 for the purposes of Parts 1 to 7 of that Act, or
  - (b) in relation to a foreign company, a person whose functions are equivalent to those of an administrative receiver and relate only to its UK affairs, business and property.

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**Commencement Information**

**I5** S. 99 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

**100 Powers of court**

- (1) On hearing an application for a housing administration order, the court has the following powers—

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- (a) it may make the order,
  - (b) it may dismiss the application,
  - (c) it may adjourn the hearing conditionally or unconditionally,
  - (d) it may make an interim order,
  - (e) it may treat the application as a winding-up petition and make any order the court could make under section 125 of the Insolvency Act 1986 (power of court on hearing winding-up petition), and
  - (f) it may make any other order which it thinks appropriate.
- (2) The court may make a housing administration order in relation to a registered provider only if it is satisfied—
- (a) that the registered provider is unable, or is likely to be unable, to pay its debts, or
  - (b) that, on a petition by the Secretary of State under section 124A of the Insolvency Act 1986, it would be just and equitable (disregarding the objectives of the housing administration) to wind up the registered provider in the public interest.
- (3) The court may not make a housing administration order on the ground set out in subsection (2)(b) unless the Secretary of State has certified to the court that the case is one in which the Secretary of State considers (disregarding the objectives of the housing administration) that it would be appropriate to petition under section 124A of the Insolvency Act 1986.
- (4) The court has no power to make a housing administration order in relation to a registered provider which—
- (a) is in administration under Schedule B1 to the Insolvency Act 1986, or
  - (b) has gone into liquidation (within the meaning of section 247(2) of the Insolvency Act 1986).
- (5) A housing administration order comes into force—
- (a) at the time appointed by the court, or
  - (b) if no time is appointed by the court, when the order is made.
- (6) An interim order under subsection (1)(d) may, in particular—
- (a) restrict the exercise of a power of the registered provider or of its relevant officers, or
  - (b) make provision conferring a discretion on a person qualified to act as an insolvency practitioner in relation to the registered provider.
- (7) In subsection (6)(a) “relevant officer”—
- (a) in relation to a company, means a director,
  - (b) in relation to a registered society, means a member of the management committee or other directing body of the society, and
  - (c) in relation to a charitable incorporated organisation, means a charity trustee (as defined by section 177 of the Charities Act 2011).
- (8) In the case of a foreign company, subsection (6)(a) is to be read as a reference to restricting the exercise of a power of the registered provider or of its directors—
- (a) within the United Kingdom, or
  - (b) in relation to the company's UK affairs, business or property.

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- (9) For the purposes of this section a registered provider is unable to pay its debts if—
- (a) it is deemed to be unable to pay its debts under section 123 of the Insolvency Act 1986, or
  - (b) it is an unregistered company which is deemed, as a result of any of sections 222 to 224 of the Insolvency Act 1986, to be so unable for the purposes of section 221 of that Act, or which would be so deemed if it were an unregistered company for the purposes of those sections.

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**Commencement Information**

**I6** S. 100 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

## **101 Housing administrators**

- (1) The housing administrator of a registered provider—
- (a) is an officer of the court, and
  - (b) in carrying out functions in relation to the registered provider, is the registered provider's agent.
- (2) The housing administrator of a registered provider must aim to achieve the objectives of the housing administration as quickly and as efficiently as is reasonably practicable.
- (3) A person is not to be the housing administrator of a registered provider unless qualified to act as an insolvency practitioner in relation to the registered provider.
- (4) If the court appoints two or more persons as the housing administrator of a registered provider, the appointment must set out—
- (a) which (if any) of the functions of a housing administrator are to be carried out only by the appointees acting jointly,
  - (b) the circumstances (if any) in which functions of a housing administrator are to be carried out by one of the appointees, or by particular appointees, acting alone, and
  - (c) the circumstances (if any) in which things done in relation to one of the appointees, or in relation to particular appointees, are to be treated as done in relation to all of them.

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**Commencement Information**

**I7** S. 101 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

## **102 Conduct of administration etc**

- (1) Schedule 5 contains provision applying the provisions of Schedule B1 to the Insolvency Act 1986, and certain other legislation, to housing administration orders in relation to companies.
- (2) The Secretary of State may by regulations provide for any provision of Schedule B1 to the Insolvency Act 1986 or any other insolvency legislation to apply, with or without modifications, to cases where a housing administration order is made in relation

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[<sup>F1</sup>a limited liability partnership,] to a registered society or a charitable incorporated organisation.

- (3) The Secretary of State may by regulations modify any insolvency legislation as it applies in relation [<sup>F2</sup>a limited liability partnership,] to a registered society or a charitable incorporated organisation if the Secretary State considers the modifications are appropriate in connection with any provision made by or under this Chapter.
- (4) In subsection (3) “insolvency legislation” means—
  - (a) the Insolvency Act 1986, or
  - (b) any other legislation (whenever passed or made) that relates to insolvency or makes provision by reference to anything that is or may be done under the Insolvency Act 1986.
- (5) The power to make rules under section 411 of the Insolvency Act 1986 is to apply for the purpose of giving effect to this Chapter as it applies for the purpose of giving effect to Parts 1 to 7 of that Act (and, accordingly, as if references in that section to those Parts included references to this Chapter).
- (6) Section 413(2) of the Insolvency Act 1986 (duty to consult Insolvency Rules Committee about rules) does not apply to rules made under section 411 of that Act as a result of this section.

#### Textual Amendments

- F1** Words in s. 102(2) inserted (20.9.2023) by [Social Housing \(Regulation\) Act 2023 \(c. 36\), s. 46\(3\), Sch. 1 para. 4; S.I. 2023/1001, reg. 2\(v\)\(ii\)](#)
- F2** Words in s. 102(3) inserted (20.9.2023) by [Social Housing \(Regulation\) Act 2023 \(c. 36\), s. 46\(3\), Sch. 1 para. 4; S.I. 2023/1001, reg. 2\(v\)\(ii\)](#)

#### Commencement Information

- I8** [S. 102\(1\)](#) in force at 5.7.2018 by [S.I. 2018/805, reg. 3\(a\)](#)
- I9** [S. 102\(2\)-\(6\)](#) in force at 3.2.2017 by [S.I. 2017/75, reg. 3\(c\)](#)

### 103 Housing administrator may sell land free from planning obligations

- (1) If the housing administrator of a registered provider disposes of land that is the subject of a planning obligation that contains relevant terms, the relevant terms are not binding on the person to whom the land is disposed of or any successor in title.
- (2) In this section—
  - “disposes of”, in relation to land, means sells a freehold or leasehold interest in the land or grants a lease of the land;
  - “planning obligation” means a planning obligation under section 106 of the Town and Country Planning Act 1990 (whether entered into before or after this section comes into force);
  - “relevant terms” in relation to a planning obligation, means any restrictions or requirements imposed by the planning obligation that are expressed not to apply in the event that the land is disposed of by a mortgagee.

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#### Commencement Information

**I10** S. 103 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

### *Restrictions on other insolvency procedures*

#### **104 Winding-up orders**

- (1) This section applies if a person other than the Secretary of State petitions for the winding-up of a registered provider that is—
  - (a) a company,
  - [<sup>F3</sup>(aa) a limited liability partnership,]
  - (b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014, or
  - (c) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.
- (2) The court may not exercise its powers on a winding-up petition unless—
  - (a) notice of the petition has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since that notice was given, or
  - (b) the Regulator of Social Housing has waived the notice requirement in paragraph (a).
- [<sup>F4</sup>(2A) A notice under subsection (2) must—
  - (a) be given in writing,
  - (b) be signed by, or on behalf of, the petitioner,
  - (c) specify the date the petition was presented, and
  - (d) contain a copy of the petition.
- (2B) Subsection (2C) applies if a person gives a notice purporting to be a notice under subsection (2) but which does not meet the requirements of any (or all) of paragraphs (b), (c) or (d) of subsection (2A).
- (2C) The Regulator of Social Housing may, by notice in writing to the petitioner, treat the purported notice as notice given under subsection (2)(a) (and a purported notice so treated will be taken as having been given at the time the purported notice was given).]
- (3) If an application for a housing administration order in relation to the registered provider is made to the court in accordance with section 99 before a winding-up order is made on the petition, the court may exercise its powers under section 100 (instead of exercising its powers on the petition).
- (4) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (2)(a).
- (5) The Regulator of Social Housing may waive the notice requirement under subsection (2)(a) only with the consent of the Secretary of State.
- (6) References in this section to the court's powers on a winding-up petition are to—
  - (a) its powers under section 125 of the Insolvency Act 1986 (other than its power of adjournment), and
  - (b) its powers under section 135 of the Insolvency Act 1986.

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#### Textual Amendments

- F3** S. 104(1)(aa) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 1 para. 5](#); S.I. 2024/437, reg. 2(w)(ii)
- F4** S. 104(2A)-(2C) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 2 para. 2](#); S.I. 2024/437, reg. 2(x)

#### Commencement Information

- I11** S. 104 in force at 5.7.2018 by [S.I. 2018/805](#), [reg. 3\(a\)](#)

## 105 Voluntary winding up

- (1) This section applies to a private registered provider that is—
  - (a) a company,
  - <sup>F5</sup>(aa) a limited liability partnership,
  - (b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014, or
  - (c) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.
- (2) The registered provider has no power to pass a resolution for voluntary winding up without the permission of the court.
- (3) Permission may be granted by the court only on an application made by the registered provider.
- (4) The court may not grant permission unless—
  - (a) notice of the application has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since that notice was given, or
  - (b) the Regulator of Social Housing has waived the notice requirement in paragraph (a).
- <sup>F6</sup>(4A) A notice under subsection (4) must—
  - (a) be given in writing,
  - (b) be signed by, or on behalf of, the registered provider,
  - (c) specify the date the application was made, and
  - (d) contain a copy of the application.
- (4B) Subsection (4C) applies if a person gives a notice purporting to be a notice under subsection (4) but which does not meet the requirements of any (or all) of paragraphs (b), (c) or (d) of subsection (4A).
- (4C) The Regulator of Social Housing may, by notice in writing to the registered provider, treat the purported notice as notice given under subsection (4)(a) (and a purported notice so treated will be taken as having been given at the time the purported notice was given).]
- (5) If an application for a housing administration order in relation to the registered provider is made to the court in accordance with section 99 after an application for permission under this section has been made and before it is granted, the court may exercise its powers under section 100.



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- (6) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (4)(a).
- (7) The Regulator of Social Housing may waive the notice requirement under subsection (4)(a) only with the consent of the Secretary of State.
- (8) In this section “a resolution for voluntary winding up” has the same meaning as in the Insolvency Act 1986.

#### Textual Amendments

- F5** S. 105(1)(aa) inserted (1.4.2024) by Social Housing (Regulation) Act 2023 (c. 36), s. 46(3), Sch. 1 para. 6; S.I. 2024/437, reg. 2(w)(ii)
- F6** S. 105(4A)-(4C) inserted (1.4.2024) by Social Housing (Regulation) Act 2023 (c. 36), s. 46(3), Sch. 2 para. 3; S.I. 2024/437, reg. 2(x)

#### Commencement Information

- I12** S. 105 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

## 106 Making of ordinary administration orders

- (1) This section applies if a person other than the Secretary of State makes an ordinary administration application in relation to a private registered provider that is—
    - (a) a company,<sup>F7</sup> ...
    - [<sup>F8</sup>(aa) a limited liability partnership, or]
    - (b) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.
  - (2) The court must dismiss the application if—
    - (a) a housing administration order is in force in relation to the registered provider, or
    - (b) a housing administration order has been made in relation to the registered provider but is not yet in force.
  - (3) If subsection (2) does not apply, the court, on hearing the application, must not exercise its powers under paragraph 13 of Schedule B1 to the Insolvency Act 1986 (other than its power of adjournment) unless—
    - (a) either—
      - (i) notice of the application has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since that notice was given, or
      - (ii) the Regulator of Social Housing has waived the notice requirement in sub-paragraph (i), and
    - (b) there is no application for a housing administration order which is outstanding.
- [<sup>F9</sup>(3A) A notice under subsection (3) must—
- (a) be given in writing,
  - (b) be signed by, or on behalf of, the person who made the ordinary administration application,
  - (c) specify the date the application was made, and
  - (d) contain a copy of the application.

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- (3B) Subsection (3C) applies if a person gives a notice purporting to be a notice under subsection (3) but which does not meet the requirements of any (or all) of paragraphs (b), (c) or (d) of subsection (3A).
- (3C) The Regulator of Social Housing may, by notice in writing to the person who made the ordinary administration application, treat the purported notice as notice given under subsection (3)(a)(i) (and a purported notice so treated will be taken as having been given at the time the purported notice was given).]
- (4) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (3)(a).
- (5) Paragraph 44 of Schedule B1 to the Insolvency Act 1986 (interim moratorium) does not prevent, or require the permission of the court for, the making of an application for a housing administration order.
- (6) On the making of a housing administration order in relation to a registered provider, the court must dismiss any ordinary administration application made in relation to the registered provider which is outstanding.
- (7) The Regulator of Social Housing may waive the notice requirement under subsection (3)(a)(i) only with the consent of the Secretary of State.
- (8) In this section “ordinary administration application” means an application in accordance with paragraph 12 of Schedule B1 to the Insolvency Act 1986.

#### Textual Amendments

- F7** Word in s. 106(1)(a) omitted (1.4.2024) by virtue of [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 1 para. 7\(a\)](#); S.I. 2024/437, reg. 2(w)(ii)
- F8** S. 106(1)(aa) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 1 para. 7\(b\)](#); S.I. 2024/437, reg. 2(w)(ii)
- F9** S. 106(3A)-(3C) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 2 para. 4](#); S.I. 2024/437, reg. 2(x)

#### Commencement Information

- I13** S. 106 in force at 5.7.2018 by S.I. 2018/805, [reg. 3\(a\)](#)

## 107 Administrator appointments by creditors [<sup>F10</sup> etc]

- (1) Subsections (2) to (4) make provision about appointments under paragraph 14 or 22 of Schedule B1 to the Insolvency Act 1986 (powers to appoint administrators) in relation to a private registered provider that is—
- (a) a company, <sup>F11</sup>...
  - [<sup>F12</sup>(aa) a limited liability partnership, or]
  - (b) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.
- (2) If in any case—
- (a) a housing administration order is in force in relation to the registered provider,
  - (b) a housing administration order has been made in relation to the registered provider but is not yet in force, or

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- (c) an application for a housing administration order in relation to the registered provider is outstanding,  
a person may not take any step to make an appointment.
- (3) In any other case, an appointment takes effect only if each of the following conditions are met.
- (4) The conditions are—
  - (a) either—
    - (i) that notice of the appointment has been given to the Regulator of Social Housing <sup>F13</sup>... and that a period of 28 days has elapsed since that notice was given, or
    - (ii) that the Regulator of Social Housing has waived the notice requirement in sub-paragraph (i),
  - (b) that there is no outstanding application to the court for a housing administration order in relation to the registered provider, and
  - (c) that the making of an application for a housing administration order in relation to the registered provider has not resulted in the making of a housing administration order which is in force or is still to come into force.

[<sup>F14</sup>(4A) A notice under subsection (4) must—

- (a) be given in writing,
  - (b) be signed by, or on behalf of, the person making the appointment,
  - (c) specify the date the appointment was made, and
  - (d) contain copies of every document in relation to the appointment that is filed or lodged with the court in accordance with paragraph 18 or 29 of Schedule B1 to the Insolvency Act 1986.
- (4B) Subsection (4C) applies if a person gives a notice purporting to be a notice under subsection (4) but which does not meet the requirements of any (or all) of paragraphs (b), (c) or (d) of subsection (4A).
- (4C) The Regulator of Social Housing may, by notice in writing to the person making the appointment, treat the purported notice as notice given under subsection (4)(a)(i) (and a purported notice so treated will be taken as having been given at the time the purported notice was given).]
- (5) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (4)(a) <sup>F15</sup>....
  - (6) The Regulator of Social Housing may waive the notice requirement under subsection (4)(a)(i) only with the consent of the Secretary of State.
  - (7) Paragraph 44 of Schedule B1 to the Insolvency Act 1986 (interim moratorium) does not prevent, or require the permission of the court for, the making of an application for a housing administration order at any time before the appointment takes effect.

#### Textual Amendments

- F10** Word in s. 107 heading inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\), s. 46\(3\), Sch. 2 para. 5\(a\)](#); S.I. 2024/437, reg. 2(x)
- F11** Word in s. 107(1)(a) omitted (1.4.2024) by virtue of [Social Housing \(Regulation\) Act 2023 \(c. 36\), s. 46\(3\), Sch. 1 para. 8\(a\)](#); S.I. 2024/437, reg. 2(w)(ii)

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- F12** S. 107(1)(aa) inserted (1.4.2024) by Social Housing (Regulation) Act 2023 (c. 36), s. 46(3), **Sch. 1 para. 8(b)**; S.I. 2024/437, reg. 2(w)(ii)
- F13** Words in s. 107(4)(a)(i) omitted (1.4.2024) by virtue of Social Housing (Regulation) Act 2023 (c. 36), s. 46(3), **Sch. 2 para. 5(b)**; S.I. 2024/437, reg. 2(x)
- F14** S. 107(4A)-(4C) inserted (1.4.2024) by Social Housing (Regulation) Act 2023 (c. 36), s. 46(3), **Sch. 2 para. 5(c)**; S.I. 2024/437, reg. 2(x)
- F15** Words in s. 107(5) omitted (1.4.2024) by virtue of Social Housing (Regulation) Act 2023 (c. 36), s. 46(3), **Sch. 2 para. 5(d)**; S.I. 2024/437, reg. 2(x)

#### Commencement Information

- I14** S. 107 in force at 5.7.2018 by S.I. 2018/805, **reg. 3(a)**

### 108 Enforcement of security

- (1) This section applies in relation to a private registered provider <sup>F16</sup>...
- (2) A person may not take any step to enforce a security over property of the registered provider unless—
- (a) notice of the intention to do so has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since the notice was given, or
  - (b) the Regulator of Social Housing has waived the notice requirement in paragraph (a).

[<sup>F17</sup>(2A) A notice under subsection (2) must—

- (a) be given in writing, and
- (b) be signed by, or on behalf of, the person intending to enforce the security.

(2B) Subsection (2C) applies if a person gives a notice purporting to be a notice under subsection (2) but which does not meet the requirement of paragraph (b) of subsection (2A).

(2C) The Regulator of Social Housing may, by notice in writing to the person intending to enforce the security, treat the purported notice as notice given under subsection (2)(a) (and a purported notice so treated will be taken as having been given at the time the purported notice was given).]

<sup>F18</sup>(3) .....

[<sup>F19</sup>(3A) In the case of a registered provider that is a charity registered under the Charities Act 2011 which is not a body corporate, the reference to the property of the registered provider is to the property held on the trusts of the charity (and for this purpose “trusts” has the same meaning as in the Charities Act 2011, see section 353 of that Act).]

- (4) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (2)(a).
- (5) The Regulator of Social Housing may waive the notice requirement under subsection (2)(a) only with the consent of the Secretary of State.

#### Textual Amendments

- F16** Words in s. 108(1) omitted (1.4.2024) by virtue of Social Housing (Regulation) Act 2023 (c. 36), s. 46(3), **Sch. 2 para. 6(a)**; S.I. 2024/437, reg. 2(x)

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- F17** S. 108(2A)-(2C) inserted (1.4.2024) by Social Housing (Regulation) Act 2023 (c. 36), s. 46(3), **Sch. 2 para. 6(b)**; S.I. 2024/437, reg. 2(x)
- F18** S. 108(3) omitted (1.4.2024) by virtue of Social Housing (Regulation) Act 2023 (c. 36), s. 46(3), **Sch. 2 para. 6(c)**; S.I. 2024/437, reg. 2(x)
- F19** S. 108(3A) inserted (1.4.2024) by Social Housing (Regulation) Act 2023 (c. 36), s. 46(3), **Sch. 2 para. 6(d)**; S.I. 2024/437, reg. 2(x)

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**Commencement Information**

- I15** S. 108 in force at 5.7.2018 by S.I. 2018/805, **reg. 3(a)**

*Financial support for registered providers in housing administration*

**109 Grants and loans where housing administration order is made**

- (1) If a housing administration order has been made in relation to a registered provider, the Secretary of State may make grants or loans to the registered provider of such amounts as appear to the Secretary of State appropriate for achieving the objectives of the housing administration.
- (2) A grant under this section may be made on any terms and conditions the Secretary of State considers appropriate (including provision for repayment, with or without interest).

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**Commencement Information**

- I16** S. 109 in force at 5.7.2018 by S.I. 2018/805, **reg. 3(a)**

**110 Indemnities where housing administration order is made**

- (1) If a housing administration order has been made in relation to a registered provider, the Secretary of State may agree to indemnify persons in respect of one or both of the following—
  - (a) liabilities incurred in connection with the carrying out of functions by the housing administrator, and
  - (b) loss or damage sustained in that connection.
- (2) The agreement may be made in whatever manner, and on whatever terms, the Secretary of State considers appropriate.
- (3) As soon as practicable after agreeing to indemnify persons under this section, the Secretary of State must lay a statement of the agreement before Parliament.
- (4) For repayment of sums paid by the Secretary of State in consequence of an indemnity agreed to under this section, see section 111.
- (5) The power of the Secretary of State to agree to indemnify persons—
  - (a) is confined to a power to agree to indemnify persons in respect of liabilities, loss and damage incurred or sustained by them as relevant persons, but
  - (b) includes power to agree to indemnify persons (whether or not they are identified or identifiable at the time of the agreement) who subsequently become relevant persons.

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- (6) The following are relevant persons for the purposes of this section—
- (a) the housing administrator,
  - (b) an employee of the housing administrator,
  - (c) a partner or employee of a firm of which the housing administrator is a partner,
  - (d) a partner or employee of a firm of which the housing administrator is an employee,
  - (e) a partner of a firm of which the housing administrator was an employee or partner at a time when the order was in force,
  - (f) a body corporate which is the employer of the housing administrator,
  - (g) an officer, employee or member of such a body corporate, and
  - (h) a Scottish firm which is the employer of the housing administrator or of which the housing administrator is a partner.
- (7) For the purposes of subsection (6)—
- (a) references to the housing administrator are to be read, where two or more persons are appointed as the housing administrator, as references to any one or more of them, and
  - (b) references to a firm of which a person was a partner or employee at a particular time include a firm which holds itself out to be the successor of a firm of which the person was a partner or employee at that time.

**Commencement Information**

**117** S. 110 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

**111 Indemnities: repayment by registered provider etc**

- (1) This section applies where a sum is paid out by the Secretary of State in consequence of an indemnity agreed to under section 110 in relation to the housing administrator of a registered provider.
- (2) The registered provider must pay the Secretary of State—
  - (a) such amounts in or towards the repayment to the Secretary of State of that sum as the Secretary of State may direct, and
  - (b) interest on amounts outstanding under this subsection at such rates as the Secretary of State may direct.
- (3) The payments must be made by the registered provider at such times and in such manner as the Secretary of State may determine.
- (4) Subsection (2) does not apply in the case of a sum paid by the Secretary of State for indemnifying a person in respect of a liability to the registered provider.
- (5) The Secretary of State must lay before Parliament a statement, relating to the sum paid out in consequence of the indemnity—
  - (a) as soon as practicable after the end of the financial year in which the sum is paid out, and
  - (b) if subsection (2) applies to the sum, as soon as practicable after the end of each subsequent financial year in relation to which the repayment condition has not been met.

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- (6) The repayment condition is met in relation to a financial year if—
- (a) the whole of the sum has been repaid to the Secretary of State before the beginning of the year, and
  - (b) the registered provider was not at any time during the year liable to pay interest on amounts that became due in respect of the sum.

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**Commencement Information**

**118** S. 111 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

## **112 Guarantees where housing administration order is made**

- (1) If a housing administration order has been made in relation to a registered provider the Secretary of State may guarantee—
- (a) the repayment of any sum borrowed by the registered provider while that order is in force,
  - (b) the payment of interest on any sum borrowed by the registered provider while that order is in force, and
  - (c) the discharge of any other financial obligation of the registered provider in connection with the borrowing of any sum while that order is in force.
- (2) The Secretary of State may give the guarantees in whatever manner, and on whatever terms, the Secretary of State considers appropriate.
- (3) As soon as practicable after giving a guarantee under this section, the Secretary of State must lay a statement of the guarantee before Parliament.
- (4) For repayment of sums paid by the Secretary of State under a guarantee given under this section, see section 113.

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**Commencement Information**

**119** S. 112 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

## **113 Guarantees: repayment by registered provider etc**

- (1) This section applies where a sum is paid out by the Secretary of State under a guarantee given by the Secretary of State under section 112 in relation to a registered provider.
- (2) The registered provider must pay the Secretary of State—
- (a) such amounts in or towards the repayment to the Secretary of State of that sum as the Secretary of State may direct, and
  - (b) interest on amounts outstanding under this subsection at such rates as the Secretary of State may direct.
- (3) The payments must be made by the registered provider at such times, and in such manner, as the Secretary of State may from time to time direct.
- (4) The Secretary of State must lay before Parliament a statement, relating to the sum paid out under the guarantee—

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- (a) as soon as practicable after the end of the financial year in which the sum is paid out, and
  - (b) as soon as practicable after the end of each subsequent financial year in relation to which the repayment condition has not been met.
- (5) The repayment condition is met in relation to a financial year if—
- (a) the whole of the sum has been repaid to the Secretary of State before the beginning of the year, and
  - (b) the registered provider was not at any time during the year liable to pay interest on amounts that became due in respect of the sum.

**Commencement Information**

**I20** S. 113 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

*Supplementary provisions*

**114 Modification of this Chapter under the Enterprise Act 2002**

- (1) The power to modify or apply enactments conferred on the Secretary of State by each of the sections of the Enterprise Act 2002 mentioned in subsection (2) includes power to make such consequential modifications of this Chapter as the Secretary of State considers appropriate in connection with any other provision made under that section.
- (2) Those sections are—
- (a) sections 248 and 277 of the Enterprise Act 2002 (amendments consequential on that Act), and
  - (b) section 254 of the Enterprise Act 2002 (power to apply insolvency law to foreign companies).

**Commencement Information**

**I21** S. 114 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

**115 Amendments to housing moratorium and consequential amendments**

Schedule 6 contains amendments to do with this Chapter.

**Commencement Information**

**I22** S. 115 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

**116 Interpretation of Chapter**

- (1) In this Chapter—
- “business”, “member”, “property” and “security” have the same meaning as in the Insolvency Act 1986;
  - “charitable incorporated organisation” means a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011;



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“company” means—

- (a) a company registered under the Companies Act 2006, or
- (b) an unregistered company;

“the court”, in relation to a company [<sup>F20</sup>, limited liability partnership] or registered society, means the court having jurisdiction to wind up the company [<sup>F20</sup>, limited liability partnership] or registered society;

“foreign company” means a company incorporated outside the United Kingdom;

“housing administration order” has the meaning given by section 95;

“housing administration rules” means rules made under section 411 of the Insolvency Act 1986 as a result of section 102 above;

“housing administrator” has the meaning given by section 95 and is to be read in accordance with subsection (2) below;

“financial year” means a period of 12 months ending with 31 March;

“legislation” includes provision made by or under—

- (a) an Act,
- (b) an Act of the Scottish Parliament,
- (c) Northern Ireland legislation, or
- (d) a Measure or Act of the National Assembly for Wales;

“objectives of the housing administration” is to be read in accordance with section 96(4);

“private registered provider” means a private registered provider of social housing (see section 80 of the Housing and Regeneration Act 2008);

“registered provider” means a registered provider of social housing (see section 80 of the Housing and Regeneration Act 2008);

“registered society” has the same meaning as in the Co-operative and Community Benefit Societies Act 2014;

“Regulator of Social Housing” has the meaning given by section 92A of the Housing and Regeneration Act 2008;

“Scottish firm” means a firm constituted under the law of Scotland;

“UK affairs, business and property”, in relation to a company, means—

- (a) its affairs and business so far as carried on in the United Kingdom, and
- (b) its property in the United Kingdom;

“unregistered company” means a company that is not registered under the Companies Act 2006.

- (2) In this Chapter references to the housing administrator of a registered provider—
  - (a) include a person appointed under paragraph 91 or 103 of Schedule B1 to the Insolvency Act 1986, as applied by Part 1 of Schedule 5 to this Act or regulations under section 102, to be the housing administrator of the registered provider, and
  - (b) if two or more persons are appointed as the housing administrator of the registered provider, are to be read in accordance with the provision made under section 101.
- (3) References in this Chapter to a person qualified to act as an insolvency practitioner in relation to a registered provider are to be read in accordance with Part 13 of the Insolvency Act 1986, but as if references in that Part to a company included a company registered under the Companies Act 2006 in Northern Ireland.

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- (4) For the purposes of this Chapter an application made to the court is outstanding if it—
- (a) has not yet been granted or dismissed, and
  - (b) has not been withdrawn.
- (5) An application is not to be taken as having been dismissed if an appeal against the dismissal of the application, or a subsequent appeal, is pending.
- (6) An appeal is to be treated as pending for this purpose if—
- (a) an appeal has been brought and has not been determined or withdrawn,
  - (b) an application for permission to appeal has been made but has not been determined or withdrawn, or
  - (c) no appeal has been brought and the period for bringing one is still running.
- (7) References in this Chapter to a provision of the Insolvency Act 1986 (except the references in subsection (2) above)—
- (a) in relation to a company, are to that provision without the modifications made by Part 1 of Schedule 5 to this Act,
  - [<sup>F21</sup>(aa) in relation to a limited liability partnership, are to that provision as it applies to limited liability partnerships otherwise than by virtue of regulations under section 102 (if at all),]
  - (b) in relation to a registered society, are to that provision as it applies to registered societies otherwise than by virtue of regulations under section 102 (if at all), and
  - (c) in relation to a charitable incorporated organisation, are to that provision as it applies to charitable incorporated organisations otherwise than by virtue of regulations under section 102 (if at all).

#### Textual Amendments

- F20** Words in s. 116(1) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\), s. 46\(3\), Sch. 1 para. 9\(a\)](#); S.I. 2024/437, reg. 2(w)(ii)
- F21** S. 116(7)(aa) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\), s. 46\(3\), Sch. 1 para. 9\(b\)](#); S.I. 2024/437, reg. 2(w)(ii)

#### Commencement Information

- I23** S. 116 in force at 5.7.2018 by [S.I. 2018/805, reg. 3\(a\)](#)

## 117 Application of Part to Northern Ireland

- (1) This section makes provision about the application of this Chapter to Northern Ireland.
- (2) Any reference to any provision of the Insolvency Act 1986 is to have effect as a reference to the corresponding provision of the Insolvency (Northern Ireland) Order 1989.
- (3) Section 116(3) is to have effect as if the reference to Northern Ireland were to England and Wales or Scotland.

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**Commencement Information**

**I24** S. 117 in force at 5.7.2018 by S.I. 2018/805, reg. 3(a)

**Changes to legislation:**

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[View outstanding changes](#)

**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. 95(1)(ia) inserted by [2023 c. 36 Sch. 1 para. 2](#)
- s. 100(7)(aa) inserted by [2023 c. 36 Sch. 1 para. 3](#)
- s. 172(1)(a) words renumbered as s. 172(1)(a) by [2017 c. 20 s. 26\(8\)\(a\)\(i\)](#)
- s. 172(1)(b) inserted by [2017 c. 20 s. 26\(8\)\(a\)\(ii\)](#)