

SCHEDULES

SCHEDULE 3

Section 36

REGULATORY AND ENFORCEMENT POWERS

- 1 The Housing and Regeneration Act 2008 is amended as follows.
- 2 In section 201 (inspections) omit subsections (2) and (2A).
- 3 In section 206 (inquiry)—
 - (a) for subsection (1) substitute—
 - “(1) The regulator may hold an inquiry into the affairs of a registered provider if the regulator suspects that—
 - (a) the affairs of the registered provider may have been mismanaged,
 - (b) the registered provider has failed to meet a standard under section 193, 194 or 194C, or
 - (c) there is a risk that, if no action is taken by the regulator or the registered provider, the registered provider will fail to meet a standard under section 193, 194 or 194C.”;
 - (b) in subsection (4)(a), for “, employees or consultants” substitute “or employees”;
 - (c) omit subsection (5).
- 4 In section 226 (overview of provisions on penalties) omit “private”.
- 5 In section 227 (grounds for imposition of penalty), in subsection (1), omit “private”.
- 6 In section 229 (amount of penalty)—
 - (a) in subsection (2), after “penalty” insert “that may be”;
 - (b) in that subsection, for “may not exceed £5,000” substitute “is unlimited”;
 - (c) omit subsection (3).
- 7 In section 249 (management transfer), in subsection (1)—
 - (a) in paragraph (a), omit “or”;
 - (b) at the end of paragraph (b) insert “, or
 - (c) the registered provider has failed to meet a standard under section 193, 194 or 194C.”
- 8 In section 251 (appointment of manager of a private registered provider), in subsection (2), in both places, omit “an individual as”.
- 9 In section 252 (supplementary provisions about appointment of manager)—
 - (a) for subsection (2) substitute—
 - “(2) The registered provider may make representations to the regulator about the notice within the period of 5 days beginning with the day on which the provider receives the notice.”;
 - (b) after subsection (2) insert—

Status: This is the original version (as it was originally enacted).

- “(2A) Unless the registered provider consents, the regulator may not take action under section 251(2) before the expiry of the period within which the provider may make representations.”;
- (c) omit subsection (3).
- 10 In section 252A (appointment of advisers to local authorities), in subsection (2)—
- (a) in the words before paragraph (a), for “thinks” substitute “is satisfied”;
- (b) at the end of paragraph (d) (inserted by section 10) insert—
- “(e) that the authority has failed to meet a standard under section 193, 194 or 194C.”.
- 11 In section 253 (transfer of land by private registered provider), in subsection (1)—
- (a) in paragraph (a), omit “or”;
- (b) at the end of paragraph (b) insert “, or
- (c) the registered provider has failed to meet a standard under section 193, 194 or 194C.”.
- 12 In section 255 (amalgamation), in subsection (1)—
- (a) in paragraph (a), omit “or”;
- (b) at the end of paragraph (b) insert “, or
- (c) the registered provider has failed to meet a standard under section 193, 194 or 194C.”.
- 13 In section 256 (restrictions on dealings during inquiry)—
- (a) in subsection (1)(a), for “non-profit” substitute “private”;
- (b) in subsection (3), for the words from “that” to the end substitute “that—
- (a) the affairs of the registered provider have been mismanaged, or
- (b) the registered provider has failed to meet a standard under section 194.”.
- 14 In section 257 (restrictions on dealings following inquiry), in subsection (1), for the words from “that” to the end substitute “that—
- (a) the affairs of a private registered provider have been mismanaged, or
- (b) a private registered provider has failed to meet a standard under section 194.”.
- 15 In section 259 (suspension of officer etc during inquiry)—
- (a) in subsection (1)(a), for “non-profit” substitute “private”;
- (b) in subsection (1)(b), for “either” substitute “any”;
- (c) in subsection (3), for the words from “that” to the end substitute “that—
- (a) the affairs of the registered provider have been mismanaged, or
- (b) the registered provider has failed to meet a standard under section 193, 194 or 194C.”;
- (d) after subsection (3) insert—
- “(3A) Case 3 applies if the regulator is satisfied that an officer, employee or agent of the registered provider is obstructing, or failing to co-operate with, the inquiry.”;
- (e) for subsection (4) substitute—

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

- “(4) The regulator may by order—
- (a) where Case 1 or Case 2 applies, suspend any officer, employee or agent of the registered provider who it thinks has contributed to the mismanagement or failure, or
 - (b) where Case 3 applies, suspend the officer, employee or agent who it thinks is obstructing, or failing to co-operate with, the inquiry.”
- 16 In section 260 (removal or suspension of officer etc following inquiry)—
- (a) in subsection (1), for the words from “that” to the end substitute “that—
 - (a) the affairs of a private registered provider have been mismanaged, or
 - (b) a private registered provider has failed to meet a standard under section 193, 194 or 194C.”;
 - (b) in subsection (2), for the words from “who” to the end substitute “who—
 - (a) it thinks has contributed to the mismanagement or failure, or
 - (b) it thinks obstructed, or failed to co-operate with, the inquiry under section 206.”
- 17 In section 266 (removal of officers)—
- (a) in subsection (1), for “non-profit” substitute “private”;
 - (b) after subsection (8) insert—
 - “(9) Case 8 applies to a person who is obstructing the regulator, or failing to co-operate with the regulator, in the performance of the regulator’s functions under this Part.”
- 18 In section 269 (appointment of new officers)—
- (a) in subsection (1), for “non-profit” substitute “private”;
 - (b) in subsection (1)(b), omit “or”;
 - (c) after subsection (1)(b) insert—
 - “(ba) in the case of a registered provider which is a registered charity, registered society or registered company, if none of the officers is a board member,
 - (bb) if the regulator is satisfied that the registered provider has failed to meet a standard under section 193, 194 or 194C, or”;
 - (d) after subsection (1) insert—
 - “(1A) In subsection (1)(ba), “board member” means—
 - (a) in the case of a registered charity which is not a registered company, a charity trustee within the meaning given by section 177 of the Charities Act 2011;
 - (b) in the case of a registered society, a member of its committee within the meaning given by section 149 of the Co-operative and Community Benefit Societies Act 2014;
 - (c) in the case of a registered company, a director within the meaning given by section 250 of the Companies Act 2006.”;
 - (e) in subsection (4)(a)—

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

- (i) leave out “on expiry”;
 - (ii) after “appointment” insert “(on any number of occasions)”.
- 19 In section 269A (local authorities: censure during or following inquiry)—
 - (a) in subsection (3), for the words from “that” to the end substitute “that—
 - (a) the affairs of the authority have been mismanaged, or
 - (b) the authority has failed to meet a standard under section 193, 194 or 194C.”;
 - (b) in subsection (4), for the words from “that” to the end substitute “that—
 - (a) the affairs of the authority have been mismanaged, or
 - (b) the authority has failed to meet a standard under section 193, 194 or 194C.”
- 20 In section 269B (response to censure notice), in subsection (2)(c), after “mismanaged” insert “or it has failed to meet the standard (as the case may be).”