

2017 No. 75 (C. 8)

ACQUISITION OF LAND, ENGLAND AND WALES
HOUSING, ENGLAND

**The Housing and Planning Act 2016 (Commencement No. 4 and
Transitional Provisions) Regulations 2017**

Made - - - - *30th January 2017*

The Secretary of State, in exercise of the powers conferred by sections 212 and 216(3) to (5) of the Housing and Planning Act 2016(a), makes the following Regulations:

Citation and interpretation

1. These Regulations may be cited as the Housing and Planning Act 2016 (Commencement No. 4 and Transitional Provisions) Regulations 2017.

2. In these Regulations—

“the Act” means the Housing and Planning Act 2016;

“confirming authority” has the same meaning as in section 7(1) of the Acquisition of Land Act 1981(b);

“special enactment” means—

- (a) a local or private Act which authorises the compulsory purchase of land specifically identified in that Act, or
- (b) a provision which—
 - (i) is contained in an Act other than a local or private Act, and
 - (ii) authorises the compulsory purchase of land specifically identified in that Act.

Provisions coming into force on 3rd February 2017

3. The following provisions of the Act come into force on 3rd February 2017—

- (a) section 93 (reducing local authority influence over private registered providers);
- (b) section 94 (recovery of social housing assistance: successors in title);
- (c) section 102(2) to (6) (conduct of administration etc);
- (d) sections 184 and 185 (vesting declarations: procedure);
- (e) sections 186 to 189 (possession following notice to treat etc);
- (f) section 191 (extended notice period for taking possession following vesting declaration);

(a) 2016 c. 22.
(b) 1981 c. 67.

- (g) section 199(1) and Schedule 17 (objection to division of land following notice to treat);
- (h) section 200 (objection to division of land: blight notices);
- (i) paragraphs 1 to 3 of Schedule 15 (amendments to the Acquisition of Land Act 1981), and section 183 in so far as it relates to those paragraphs, in so far as not already in force, except in relation to a compulsory purchase order which is made by, or for which the confirming authority is, the Welsh Ministers;
- (j) paragraphs 4 to 7 of Schedule 15 (amendments to the Compulsory Purchase (Vesting Declarations) Act 1981), and section 183 in so far as it relates to those paragraphs, except in relation to a compulsory purchase order, or any other order which authorises the compulsory purchase of land, which is made by, or for which the confirming authority is, the Welsh Ministers;
- (k) paragraphs 1 to 9 of Schedule 18 (objection to division of land following vesting declaration), and section 199(2) in so far as it relates to those paragraphs.

Provisions coming into force on 6th April 2017

4. Section 92 (reducing social housing regulation) of, and Schedule 4 to, the Act come into force on 6th April 2017.

Transitional provisions: compulsory purchase

5.—(1) The amendments made by the relevant provisions of the Act, in so far as they are brought into force by regulation 3, only apply in relation to a compulsory purchase of land which is authorised on or after 3rd February 2017.

(2) The relevant provisions are—

- (a) sections 184 to 189;
- (b) section 191;
- (c) paragraphs 1 to 7 of Schedule 15;
- (d) paragraphs 1 to 3 and 5 to 8 of Schedule 17;
- (e) paragraphs 1 to 8 of Schedule 18.

(3) For the purposes of this regulation, a compulsory purchase of land is authorised—

- (a) by a compulsory purchase order, on the day on which the order is—
 - (i) confirmed by a Minister, the Welsh Ministers or another authority; or
 - (ii) made by a Minister or the Welsh Ministers.
- (b) by an order under section 1 or 3 of the Transport and Works Act 1992(a), on the day on which the Secretary of State or the Welsh Ministers determine under section 13(1) of that Act to make the order;
- (c) by a harbour revision order, a harbour empowerment order or a harbour closure order under the Harbours Act 1964(b), on the day on which the order is made by a Minister, the Welsh Ministers or a person who is designated in an order made under section 42A(c) of that Act;
- (d) by any other order, on the day on which the order is made by a Minister or the Welsh Ministers; or
- (e) by a special enactment, on the day on which the special enactment is enacted.

(a) 1992 c. 42.

(b) 1964 c. 40.

(c) Section 42A was inserted by section 315 of, and paragraphs 1 and 3(1) of Schedule 21 to, the Marine and Coastal Access Act 2009 (c. 23).

Transitional provision: disposal of property by private registered providers

6. On the coming into force of the repeal made by section 92 of and paragraph 15 of Schedule 4 to the Act, the Regulator of Social Housing is deemed to have consented to any purported disposal of property made before that date which would have required consent under section 172 of the Housing and Regeneration Act 2008(a).

Transitional provision: abolition of disposal proceeds funds

7.—(1) Paragraph 33 of Schedule 4 to the Act does not have effect, in relation to a private registered provider, until the earliest of—

- (a) the date on which the funds in the private registered provider’s disposal proceeds fund are fully exhausted; or
- (b) the date on which the private registered provider notifies the Regulator of Social Housing that it is unable to use or allocate, or continue to use or allocate, funds in that private registered provider’s disposal proceeds fund in accordance with a direction made by the Regulator; or
- (c) 6th April 2020.

(2) Notwithstanding paragraph (1), a private registered provider which has a disposal proceeds fund on 6th April 2017 shall not be required, under section 177 of the Housing and Regeneration Act 2008, to account for the proceeds of sale of any disposal after that date within its disposal proceeds account.

(3) If within the period set out at (1) a private registered provider (A) transfers its disposal proceeds fund to another private registered provider (B), then B’s management of that fund shall be treated under (1) as if it were A.

Signed by authority of the Secretary of State for Communities and Local Government

Gavin Barwell
Minister of State

30th January 2017

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force various provisions of the Housing and Planning Act 2016 (c.22) (“the Act”).

Regulation 3(a) brings into force section 93 for the purpose of making regulations to reduce the influence of local authorities over private registered providers (which are defined in Part 2 of the Housing and Regeneration Act 2008 (c.17)).

Regulation 3(b) brings into force section 94 which removes the Homes and Communities Agency’s ability to recover financial assistance in circumstances where social housing provided as a result of that assistance is disposed of outside the regulated sector in consequence of either a lender enforcing its security or the winding up or administration (including a housing administration under Chapter 5 of Part 4 of this Act) of the recipient or a successor in title.

(a) 2008 c. 17.

Regulation 3(c) brings into force section 102 (subsections (2) to (6)) which enables the Secretary of State to make regulations to apply a housing administration scheme to a registered society or a charitable incorporated organisation which is also a registered provider of social housing. It also enables the Secretary of State when making rules under section 411 of the Insolvency Act 1986 to modify those rules for this purpose and to set out the detail of how a housing administration scheme would be run. Chapter 5 of Part 4 of the Act provides for a housing administration regime in relation to private registered providers of social housing in the event of insolvency proceedings.

Regulation 3(d) to (k) brings into force various compulsory purchase provisions in Part 7 of the Act. Paragraphs (d) and (f) commence sections 184, 185 and 191 which concern general vesting declarations. Paragraph (e) commences sections 186 to 189 which concern the taking of possession following a notice to treat.

Paragraphs (g), (h) and (k) commence provisions on objecting to the division of land, namely section 199(1) and Schedule 17, section 200 and paragraphs 1 to 9 of Schedule 18 and section 199(2), in so far as it relates to those paragraphs.

Paragraphs (i) and (j) commence provisions in Schedule 15 which change the notice requirements for general vesting declarations. Paragraphs 1 to 3 of Schedule 15 and section 183, in so far as it relates to those paragraphs, are commenced in so far as not already in force, except in relation to a compulsory purchase order which is made by, or for which the confirming authority is, the Welsh Ministers. Paragraphs 4 to 7 of Schedule 15 and section 183, in so far as it relates to those paragraphs, are commenced except in relation to a compulsory purchase order, or any other order which authorises the compulsory purchase of land (such as a development consent order under the Planning Act 2008 (c. 29)), which is made by, or for which the confirming authority is, the Welsh Ministers.

Regulation 4 brings into force section 92 and the amendments made by Schedule 4 of the Act. This has the effect of reducing regulation of social housing in a number of respects.

Regulation 5 makes transitional provision in relation to the coming into force of the following provisions of the Act on compulsory purchase: sections 184 to 189 and 191, paragraphs 1 to 7 of Schedule 15, paragraphs 1 to 3 and 5 to 8 of Schedule 17 and paragraphs 1 to 8 of Schedule 18. The amendments made by these provisions, in so far as they are brought into force by regulation 3, only apply in relation to a compulsory purchase of land which is authorised on or after 3rd February 2017.

Regulation 6 provides that, where there has been a purported disposal of property which would have required the consent of the Regulator of Social Housing under section 172 of the Housing and Regeneration Act 2008 (c. 17), but which had not received such consent immediately before the repeal of those provisions, consent is deemed to have been given.

Regulation 7 makes transitional provisions in relation to the repeal of sections 177 and 178 of the Housing and Regeneration Act 2008, which relate to the disposal proceeds funds. Regulation 7(1) provides that, where a registered provider of social housing has a disposal proceeds fund on 6th April, the repeal shall not take effect in relation to that fund until the earliest of it ceasing to be able to use the fund in compliance with the Regulator of Social Housing's direction, the fund being exhausted, or the expiry of three years. Regulation 7(2) provides that a registered provider of social housing is not required to pay further monies into its disposal proceeds fund after the repeal of sections 177 and 178 of the Housing and Regeneration Act. Regulation 7(3) provides that, where a disposal proceeds fund is transferred to a registered provider of social housing from another provider, the registered provider will be treated as that former provider in relation to that fund.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No.</i> |
|---|-----------------------------|-----------------|
| Sections 9 to 11 | 31st October 2016 | 2016/733 |
| Section 12 | 13th July 2016 | 2016/733 |
| Sections 64 and 65 | 26th May 2016 | 2016/609 |
| Section 66 | 13th July 2016 | 2016/733 |
| Sections 67 and 68 | 26th May 2016 | 2016/609 |
| Sections 80 to 91 | 1st October 2016 | 2016/956 |
| Section 132 | 1st October 2016 | 2016/733 |
| Sections 141 and 142 | 1st October 2016 | 2016/733 |
| Sections 143 and 144 | 13th July 2016 | 2016/733 |
| Sections 145(1) to 145(4) | 1st October 2016 | 2016/733 |
| Section 145(5) | 26th May 2016 | 2016/609 |
| Sections 146 to 148 | 1st October 2016 | 2016/733 |
| Sections 150(4) and 150(5) | 13th July 2016 | 2016/733 |
| Sections 152(2) to 152(4) | 13th July 2016 | 2016/733 |
| Section 154 | 13th July 2016 | 2016/733 |
| Section 156 | 1st October 2016 | 2016/733 |
| Sections 169 and 170 | 13th July 2016 | 2016/733 |
| Section 171 | 1st October 2016 | 2016/733 |
| Sections 172 to 179 | 13th July 2016 | 2016/733 |
| Section 182 | 13th July 2016 | 2016/733 |
| Section 183 (partially) | 1st October 2016 | 2016/956 |
| Section 190 | 13th July 2016 | 2016/733 |
| Sections 201 to 206 | 13th July 2016 | 2016/733 |
| Schedule 11 | 1st October 2016 | 2016/733 |
| Schedule 12 (excluding paragraph 27) | 13th July 2016 | 2016/733 |
| Schedule 14 | 13th July 2016 | 2016/733 |
| Schedule 15 – paragraphs 1, 2(1), 2(2), 3(1), 3(2) (for the purpose only of exercising powers to prescribe certain forms and statements in regulations) | 1st October 2016 | 2016/956 |
| Schedule 15 – paragraph 8 | 1st October 2016 | 2016/956 |
| Schedule 16 | 13th July 2016 | 2016/733 |
| Schedule 19 | 13th July 2016 | 2016/733 |

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