

Social Justice and Regeneration Committee

SJR(2)-03-07(p.3) Annex 2

Housing Act 2004 - Secondary Legislation

Royal Assent: 18th November 2004. New provisions in the Housing Act 2004 refer to SIs being made by the ‘Appropriate National Authority’ (‘ANA’ is defined under s261(1) as the National Assembly for Wales in relation to Wales). Where provisions amend/ insert or substitute sections or paragraphs into earlier Housing Acts there is reference to ‘Relevant Authority’ and ‘Secretary of State’. Please note section 267 states that in Schedule 1 to the NAW TFO 1999 (S.I. 1999/672), references to the 1985, 1988 and 1996 Housing Acts are treated as amended by the Housing Act 2004.

	Power	Exercisable	Timescales
Part 2	Licensing of houses in multiple occupation (HMO)		
Section 74 Further provisions about rent repayment orders	Section 74 provides that where a landlord is convicted of an offence under Section 72 (1) [ie where a person has control/ manages a HMO but does not have the required licence] the Residential Property Tribunal (formerly Rent Assessment Panel) is required to make a rent repayment order in respect of all Housing Benefit received by the landlord unless exceptional circumstances apply. In all other cases the RPT has discretion to make a rent repayment order for such an amount as is reasonable in the circumstances.	Regulations	Timetable to be confirmed
Part 3	Selective licensing of other residential accommodation		
Section 97 Further provisions about rent repayment orders	Rent repayment orders.	By regulations	Commences Summer 2007

Part 4	Additional control provisions in relation to residential accommodation		
Section 146 Interpretation / modification of Part 4	Modify any provision of Part 4 in relation to section 257 HMOs.	By regulations	To be determined
Part 5 Home Information Packs (HIPs)	Part 5 is not transferred to the Assembly under the Act. However, under section 250(3) the Secretary of State must consult with the Assembly before making any regulations, which relate to residential properties in Wales.	-	SoS
Part 6	Other Provisions About Housing		
Section 182 Exceptions to the right to buy: houses due to be demolished	Inserts new paragraphs 13-16 into Schedule 5 of the Housing Act 1985. Paragraph 15 allows a direction to be issued extending the period during which a final demolition notice is in force in respect of a dwelling house. Under paragraphs 15(8)&(9) consent can be given subject to conditions.	Direction Consent	No timetable
Section 187 RTB: Deferred resale agreements	New 163A to the Housing Act 1985 gives power to provide for subsection (1) to apply to agreements of any description specified in an order in addition to those specified under subsection (3); and for subsection (1) not to apply to agreements of any description so specified.	By Order	No timetable

Section 192 RTB: Suspension of certain rights in connection with anti social behaviour (ASB)	Expand existing regulation making power under section 171C of the Housing Act 1985 (modifications of Part 5 in relation to preserved right to buy), and section 17 of the Housing Act 1996 (application of that Part in relation to right to acquire dwelling). These Regulations may make provision for continuing the effect of a suspension order where the secure tenancy in respect of which the order was made has been replaced by an assured tenancy.	Amendment to regulation-making power	Timetable not yet finalised. Timetabling is dependant upon receiving the English (DCLG) regulations
Section 194 disclosure of information as to orders in respect of ASB	Expand existing regulation making power under section 171C of the Housing Act 1985 or section 17 of the Housing Act 1996. Regulations may make provision corresponding to subsections (1)-(3) of this section so far as those subsections relate to section 138(2B) of Housing Act 1985.	Amendment to regulation-making power	Timetable not yet finalised. Timetabling is dependant upon receiving the English (DCLG) regulations.
Disposals by local authorities			
Section 198 deferred resale agreements	New section 39A inserted into the Housing Act 1985 in respect of deferred resale agreements. Power to provide description of agreement etc.	By Order	No timetable
Disposals by Registered Social Landlords (RSL)			
Section 201 deferred resale agreements	New section 15A of the Housing Act 1996 can provide for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3).	By order	No timetable
Disposals by Housing Action Trust (HAT)			

Section 205 deferred resale agreements	Inserts new paragraph 8 into Schedule 11 to the Housing Act 1988. May provide for those matters under subsection (5)(a) &(b).	By Order	No timetable
Mobile Homes			
Section 206 particulars of site agreements to be given in advance	Substitutes new s1 into the Mobile Homes Act 1983. Power to prescribe requirements in respect of site agreements. Draft Mobile Homes (Written statement) (Amendment) Regulations 2005	By Regulations	March 2007
Section 208 power to amend implied terms in site agreements	New section 2A inserted into the Mobile Homes Act 1983. Power to amend terms implied in site agreements. Power to amend Part 1 or 2 of Schedule 1 to the Act. Draft Mobile Homes (Amendment of Schedule 1 of the Mobile Homes Act 1983) Regulations 2005	By Order	No Timetable
Section 212 tenancy deposit schemes (TDS) & Schedule 10	Power to confer/impose on scheme administrators powers/duties in connection with arrangements under subsection (1), ie for securing that one or more TDSs are available for the purpose of safeguarding tenancy deposits paid in connection with shorthold tenancies. Under Schedule 10, paragraph 3(5) the relevant arrangements under section 212 (1) may provide for any amount paid in accordance with paragraph 4 to be paid with interest at such rate as specified (see Paragraph 3(5)(a)&(b)).	By regulations By Order	6 April 2007
Section 213 requirements relating to tenancy deposits	Power to prescribe forms relating to tenancy deposits.	Regulations	6 April 2007

Section 216 Overcrowding	To make provision for amending the legislation that governs the control of overcrowding in housing accommodation.	By Order	To be determined - may be covered by Part 1 of the Act
Section 218 Amendments relating to RSLs & Schedule 11 amendments relating to RSLs	Paragraph 16 of Schedule 11 inserts new Paragraph 15A into Schedule 1. May provide for any provisions of paragraph 15(2)-(6) to apply in relation to a RSL within paragraph (2) in such circumstances and with such modifications....	By regulations	
Section 220 additional power to give grants for social housing	New section 27A to the Housing Act 1996. Power to make provision in connection with the making of grants under the section in particular those matters under sub-section 4(a)-(d).		NAW CO No plans to commence provisions in Wales
Sections 226 Guidance in relation to section 225 (Accommodation needs of Gypsies and Travellers)	Power to issue guidance to LHAs in respect of carrying out assessments in respect of Gypsies and Travellers, and the preparation of any strategies that LHAs are required to prepare.	Guidance	Post May 2007 – Subject to Negative Resolution
Part 7	Supplementary and Final provisions		
Section 253 Local Inquiries	Power for the purposes of execution of any of the authority's functions under this Act may cause such local inquiries to be held as the authority considers appropriate.	Local Inquiry	
Section 257 HMOs Certain Blocks of Flats	Power for local authorities to apply additional HMO licensing to poorly converted blocks of flats that do not conform to building regulations.	By Regulations	To be determined