

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	Commences Summer 2006
Part 3	Selective licensing of other residential accommodation		
Section 79 licensing of houses to which Part 3 applies	Descriptions of tenancies and licences to be exempt from selective licensing.	By Order	Target CIF 26 October 2006

Section 80 designation of selective licensing areas	<p>Power to amend subsection 4 (ie matters that LHA must take into account in deciding whether an area is, or is likely to become an area of low housing demand) to add new matters to be taken into account in defining low demand.</p> <p>Power under 80(7) to provide additional set of conditions for the purposes of subsection (2) (conditions in relation to an area that must be satisfied before an authority can designate an area as being subject to selective licensing).</p>	<p>By Order</p> <p>By Order</p>	Target CIF 26 October 2006
Section 82 Designation needs confirmation or general approval to be effective	Power to confirm or refuse to confirm a designation of an area subject to selective licensing. A general approval may be given in relation to a description of designations framed by reference to any matters or circumstances.	Confirmation of designation/ general approval	Target CIF 26 October 2006
Section 83-84 Notification requirements etc	Power to prescribe regulations in relation to notification requirements and in respect of duration/review and revocation of designations.	By regulations	Target CIF 26 October 2006
Section 87 applications for licences	Provision re licence applications (eg form, content, fees).	By regulations	Target CIF 26 October 2006

Section 90 licence conditions & Schedule 4 Licences under Parts 2 and 3: mandatory conditions	Power to prescribe licence conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards. Under Paragraph 3, power to amend Schedule 4 so as to alter (by the addition or removal of conditions) the conditions which must be included (a) in a licence under Part 2 or 3, or (b) only in a licence under one of those Parts.	By regulations By regulations	Target CIF 26 October 2006
Section 93 revocation of licences	Power to prescribe circumstances in which a LHA may revoke a licence.	By regulations	Target CIF 26 October 2006
Section 97 Further provisions about rent repayment orders	Rent repayment orders.	By regulations	Commences Summer 2006
Part 4	Additional control provisions in relation to residential accommodation		
Section 134 authorisation to make interim EDMOs	Power to prescribe exceptions for purposes of subsection (1)(b), prescribe period of time for purposes of subsection 2(a), and prescribe requirements for the purposes of subsection (2)(e). Order may include exceptions in relation to those matters under subsection (6).	By Order	Target CIF 26 October 2006

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	March 2007
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	April 2007
Section 213 requirements relating to tenancy deposits	Power to prescribe forms relating to tenancy deposits.	Regulations	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	Draft timeframe for the completion of this work: 30 th March 2006
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