

HOUSING (WALES) BILL – TABLE OF DERIVATIONS

The attached table is intended to provide information on the derivation of the provisions of the Housing (Wales) Bill. The table does not provide definitive or exhaustive guidance, and should be read in conjunction with the Bill and with the explanatory notes on the Bill.

KEY TO ABBREVIATIONS

- P. – paragraph
 R. – regulation
 S. – section
 Ss. – sections
 Sch. – Schedule
 WMs – The Welsh Ministers
 The Bill – The Housing (Wales) Bill

HOUSING (WALES) BILL – TABLE OF DERIVATIONS		
SECTION/ PARAGRAPH	CORRESPONDING REFERENCE IN EXISTING LEGISLATION	SUBSTANTIVE CHANGE
PART 1: REGULATION OF PRIVATE RENTED HOUSING		
1 - 35	New	
PART 2: HOMELESSNESS		
CHAPTER 1 – HOMELESSNESS		
36	Ss. 36-38 are derived from Ss. 1-3: Housing Act 2002. S. 36 is derived from S.1. The duty to produce a strategy has been clarified and a clear timetable added. The WMs have been given a new power to change the timetable. The meaning of “homeless” derives from S. 175: Housing Act 1996.	Yes
37	S. 2: Housing Act 2002. The wording has been modernised	No
38	S. 3: Housing Act 2002. The wording has been modernised	No
CHAPTER 2 – HELP FOR PEOPLE WHO ARE HOMELESS OR THREATENED WITH HOMELESSNESS		
39	New	
40	New	
41	S. 175: Housing Act 1996. The main change is that the period for threatened homelessness has been	Yes

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	extended from 28 to 56 days.	
42	S. 176: Housing Act 1996.	No
43	S. 177: Housing Act 1996. The reference to “domestic violence or other violence” has been updated to “domestic abuse or abuse”, which is then defined. This has been updated to reflect the way case-law has interpreted the Act. A reference to “affordability” has been added. This is derived from SI 1996/3204 – The Homelessness (Suitability of Accommodation) (Wales) Order 1996.	Yes
44	S. 178: Housing Act 1996.	No
45	S. 210: Housing Act 1996. This has been modernised and expanded to make it simpler to read. A reference to Part 1 of the Bill (Private Rented Sector) has been added. In S.45(2), a reference to “affordability” has been added. This is derived from SI 1996/3204 - The Homelessness (Suitability of Accommodation) (Wales) Order 1996.	Yes
46	S. 179: Housing Act 1996. This has been strengthened and modernised. In particular, it has been brought into line with provision in S.8 of the Social Services and Well-being (Wales) Bill, so that services may be integrated. Sections 180 and 181 of Housing Act 1996 have not been replicated. They gave powers to government ministers and local authorities to assist voluntary organisations, and provided for the terms of assistance. These have not been carried forward because they are no longer considered necessary in view of wider powers available to local authorities under the Local Government Act 2003 and to WMs under the Government of Wales Act 2006.	Yes
47	S. 185-187: Housing Act 1996.	No

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	There has been no substantive change, but the main provisions have been moved to Schedule 2 to the Bill.	
48	<p>New but based on S. 183-184: Housing Act 1996.</p> <p>The “duty to assess” is made explicit by the Bill and now resembles that in Ss. 10 and 12 of the Social Services and Well-being (Wales) Bill.</p> <p>However, the substantive changes are small and are aimed at correcting omissions in the Housing Act 1996.</p> <p>S. 48(1)(a) makes it clear that the duty arises in a case where a person seeks help in retaining accommodation. The Housing Act 1996 only refers to ‘obtaining’ accommodation.</p> <p>S.48(2) makes it clear that a local authority does not have to repeat the assessment if the applicant’s circumstances are unchanged.</p>	
49	<p>S.184: Housing Act 1996.</p> <p>The notification provisions have been separated out from S. 184 into a separate section.</p> <p>The only substantive change is that this now refers to “outcome of assessment” instead of “completing inquiries”.</p>	Yes
50	New	
51	New	
52	<p>S.195: Housing Act 1996.</p> <p>The main changes are the duty to help prevent homelessness is now explicit and applies to all eligible applicants who are threatened with homelessness. Because it is a simpler duty, the new provision is also simpler.</p> <p>Ss. 50 and 51 of the Bill set out ways to help.</p>	Yes

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53	<p>New.</p> <p>In the Housing Act 1996, it was not clear how this duty came to an end.</p>	
54	<p>This section is new but is based on S.188; 190; 193(2) and (3); and 200(1): Housing Act 1996.</p> <p>The Bill combines and clarifies several duties in the Housing Act 1996 to provide interim or temporary accommodation.</p> <p>S.54 of the Bill repeats the provision in S.188 of the Housing Act 1996 about interim accommodation for priority need cases pending a decision as to duties.</p> <p>S.54 of the Bill also adds provision for interim accommodation for these cases to continue until the relevant duties are at an end. It thus adds the duties to provide temporary accommodation from the following sections of the Housing Act 1996: S.190: temporary accommodation for those priority need cases who are intentionally homeless. In the Bill, this duty is limited to 56 days.</p> <p>S. 193(2) and (3). This provision in the Housing Act 1996 is about the duties owed to applicants in priority need. The Bill makes it explicit that applicants, in priority need and owed a full housing duty, must be accommodated pending finding a housing solution for them.</p> <p>S.200(1). This provides that interim accommodation must be provided if an applicant is referred to another local authority to be housed. The Bill does not change this but combines it with the other related provisions.</p>	
55	<p>S.189: Housing Act 1996 and SI 2001/607: The Homelessness Persons (Priority Needs) (Wales) Order 2001.</p> <p>The Bill combines the ‘priority need’</p>	Yes

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	<p>categories from S.189 of the Housing Act 1996 and from an order made under that section.</p> <p>The Bill includes one change from SI 2001/607 The Homelessness Persons (Priority Needs) (Wales) Order 2001 which is a change to the priority need status of former prisoners. Currently they are in 'priority need' if they have been homeless since leaving prison, provided that they have a local connection with the area. The Bill amends this so that they will only be in priority need if they are vulnerable as a result of their period in prison.</p>	
56	New	
57	New	
58	New but partly based on the duty in S.193: Housing Act 1996 to secure accommodation for applicants in priority need and unintentionally homeless. However, it differs in a number of ways from that duty.	
59	<p>New but partly based on the ending of the duty in S.193: Housing Act 1996 to secure accommodation for applicants in priority need and unintentionally homeless. However, it differs in a number of ways from that duty.</p> <p>S.59(5) derives from S. 193(7AD) of the Housing Act 1996 for 'restricted' cases.</p>	
60	S.191: Housing Act 1996.	No
61	New	
62	New	
63	<p>S.198: Housing Act 1996</p> <p>The reference to 'violence' has been updated to 'abuse'.</p> <p>S. 63(6)(b) of the Bill - The functions of the Secretary of State and of the WMs have been made joint in cross-border cases.</p> <p>S. 63(8) of the Bill - The WMs have been given a new power to add circumstances in which the conditions for referral are, or are</p>	Yes

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	not, met.	
64	S.199: Housing Act 1996.	No
65	S.200: Housing Act 1996. The Bill does not set out in detail, the duty in S. 200(2): Housing Act 1996, to notify the applicant, since this is now in section 67 of the Bill. S. 200(3) and (4): Housing Act 1996 are not replicated in respect of Welsh local authorities. Instead, by S.65 (3) and (4) they will be subject to the duty under S.56 of the Bill to help end a person's homelessness.	Yes
66	S.200: Housing Act 1996. S.66 of the Bill is limited to those cases referred from England. In addition the duty owed by Welsh authorities is that under S.56 of the Bill.	Yes
67	New. This brings together the duties to notify into one place in the Bill.	
68	S.202: Housing Act 1996. The review provisions relate to the decisions by a local authority under the Bill, but there are no substantive changes.	No
69	S.203: Housing Act 1996. The review provisions relate to the decisions by a local authority under the Bill, but there are no substantive changes.	No
70	New	
71	S.204: Housing Act 1996.	No
72	S.204A: Housing Act 1996.	No
73	S.206(2): Housing Act 1996.	No
74	S.208: Housing Act 1996.	No
75	S.209: Housing Act 1996.	No
76	S.211: Housing Act 1996.	No
77	S.212: Housing Act 1996. The power to enter in S. 212(1) appeared to be deficient. For that reason new provisions are added as follows: S.212(2) provides that an officer exercising	Yes

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	<p>the right to enter must show authority if asked.</p> <p>S.212(3) provides that a person obstructing the exercise of the duty commits an offence.</p>	
78	<p>S.213: Housing Act 1996.</p> <p>The duty of co-operation in S.78(2) has been reworded, so that the bodies concerned must cooperate, unless it is incompatible with their duties or would have an adverse effect on the exercise of their functions.</p> <p>There is a new duty on these bodies, in S.78(4), to give written reasons for a refusal to co-operate.</p> <p>S.78 does not replicate the duties of housing bodies in Scotland, although it preserves the cross-border arrangements between England and Wales.</p>	Yes
79	<p>S.213A: Housing Act 1996.</p> <p>The provisions in the Housing Act 1996 have been amended to reflect that all local housing authorities in Wales are unitary authorities.</p>	No
80	<p>S.214: Housing Act 1996.</p> <p>In S.80(4), the burden of proving that the defendant was given the explanation required by S80(3) is placed on the prosecutor rather than the defendant.</p> <p>In S.80(5) the level of the fine is reduced from level 5 on the Standard Scale in the HA 1996 to level 4 in the Bill. This anticipates pending changes to the Standard Scale.</p>	Yes
81	<p>S.182: Housing Act 1996.</p> <p>S. 81 of the Bill modernises S.182, and makes more detailed provision about changes to guidance and publication of the guidance.</p>	Yes
82	<p>New. This section deals with interpretation of Part 2 of the Bill. For interpretation of</p>	

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	Housing Act 1996, see S.218 thereof.	
83	New	
PART 3: GYPSIES AND TRAVELLERS		
84	Housing Act 2004 – s. 225 Section 84 strengthens the existing requirement for local housing authorities to carry out an assessment of the accommodation needs of gypsies and travellers residing in or resorting to their district.	
85-93	New	
PART 4: STANDARDS FOR SOCIAL HOUSING		
94	New	
95	New	
96	New	
97	New	
98	New	
99	New	
100	New	
101	New	
102	New	
103	New	
104	New	
105	New	
106	New	
107	New	
108	New	
109	New	
110	New	
111	S. 25: Landlords and Tenants Act 1985 Removes the existing offence provision where a Registered Social Landlord “RSL” in Wales fails to provide information. Section 111 also clarifies that the offence provision does not apply to Local Housing Authorities in Wales.	
112	S. 26 Landlords and Tenants Act 1985 Amends S 26(1) of the 1985 Act to apply the duty to a local authority in Wales.	
113	Not applicable	

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SECTION/ PARAGRAPH	CORRESPONDING REFERENCE IN EXISTING LEGISLATION	SUBSTANTIVE CHANGE
PART 5: HOUSING FINANCE		
114	Local Government and Housing Act 1989: Part 6 Sections. 79, 80, 80ZA, 80A, 80B, 85 and 86 Schedule 4: Part 1, Part 2 and Part 3 These sections and the schedule are amended to enable the abolition of the Housing Revenue Account Subsidy scheme in Wales.	Yes
115	New	
116	New	
117	S 117 (8) makes a technical change to the Local Government and Housing Act 1989: Schedule 4, Part 2, Item 5A Technical change	No
118	New	
119	New	
PART 6: ALLOWING FULLY MUTUAL HOUSING ASSOCIATIONS TO GRANT ASSURED TENANCIES		
120	New	
121	New	
PART 7: COUNCIL TAX FOR EMPTY DWELLINGS		
122	New	
PART 8: MISCELLANEOUS AND GENERAL		
123	New	
124	New	
125	New	
126	New	
127	New	
128	New	
SCHEDULE 1: REGISTER OF PRIVATE RENTED HOUSING: PART 1 CONTENT OF REGISTER		
1 -2	New	
SCHEDULE 1: PART 2: ACCESS TO REGISTER		
3 – 5	New	
SCHEDULE 2: ELIGIBILITY FOR HELP UNDER CHAPTER 2 OF PART 2		
1	S.185: Housing Act 1996. The only material changes to this and to the following sections, are those required to disentangle Welsh law from the existing	No

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	English and Welsh law.	
2	S.186: Housing Act 1996.	No
3	S.187: Housing Act 1996.	No