

Social Housing (Regulation) Bill [HL]

[This marshalled list has been prepared subject to the House agreeing the motion in the name of the Lord Privy Seal on Monday 5 September 2022.]

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 27th June 2022, as follows –

Clauses 1 to 12	Clauses 29 and 30
Schedule 1	Schedule 4
Clause 13	Clauses 31 and 32
Schedule 2	Schedule 5
Clauses 14 to 28	Clauses 33 to 36
Schedule 3	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 1

BARONESS PINNOCK
BARONESS THORNHILL

1 Clause 1, page 1, line 5, after “safe” insert “, energy efficient”

Member's explanatory statement

This amendment would require the fundamental objectives to include reference to energy efficiency.

BARONESS THORNHILL
BARONESS PINNOCK

2 Clause 1, page 1, line 10, at end insert –

“(d) after paragraph (d) insert –

“(e) to safeguard and promote the interests of persons who are or who may become homeless in relation to the provision of social housing.””

Member's explanatory statement

This amendment would add to the regulator’s remit an additional objective of safeguarding and promoting the interests of persons who are or who may become homeless in the context of the provision of social housing.

BARONESS HAYMAN OF ULLOCK

3 Clause 1, page 1, line 10, at end insert –

“(d) after paragraph (d) insert –

“(e) to make recommendations to the Secretary of State in relation to compensation for tenants of social housing.””

Member's explanatory statement

This amendment would allow the regulator to make recommendations about compensation for tenants.

BARONESS PINNOCK
BARONESS THORNHILL

4 Clause 1, page 1, line 10, at end insert –

“(2) After subsection (3) insert –

“(3A) In undertaking its objective under subsection (3)(a) the regulator must report to the Secretary of State on the progress of the removal of unsafe cladding and the remediation of other fire safety defects in social housing, and may make recommendations to the Secretary of State on further action required.””

Member's explanatory statement

This amendment would include in the regulator’s objective to ensure the provision of safe social housing a requirement to report to the Government on the removal of cladding and the remediation of other fire safety work.

BARONESS PINNOCK
BARONESS THORNHILL

5★ Clause 1, page 1, line 10, at end insert –

“(2) After subsection (3) insert –

“(3A) In undertaking its objective under subsection (2)(b) the regulator must report to the Secretary of State at least every three years on whether the provision of social housing in England and Wales is sufficient to meet reasonable demands, and must make recommendations to the Secretary of State on how to ensure that the provision of social housing is so sufficient.”

- (3) The Secretary of State must lay a copy of any reports prepared by virtue of subsection (2) before Parliament.”

Member's explanatory statement

This amendment would require the regulator to report to the Secretary of State on the adequacy of the stock of social housing.

Clause 2

BARONESS HAYMAN OF ULLOCK

- 6 Clause 2, page 2, line 9, at end insert –

“(4A) In making appointments to the Panel, the regulator must give consideration to appointing persons from different regions of the United Kingdom.”

Member's explanatory statement

This amendment would ensure regional diversity on the Panel.

BARONESS HAYMAN OF ULLOCK

- 7 Clause 2, page 2, line 17, at end insert –

“(8) The Panel must be chaired by a social housing tenant.

(9) The Chair is responsible for setting agendas.”

Member's explanatory statement

This amendment means that the panel must be chaired by a tenant with responsibility for agenda setting.

Clause 3

BARONESS SCOTT OF BYBROOK

- 8 Clause 3, page 3, line 31, at end insert –

“(ba) in subsection (3), omit the words from “not” to the end;”

Member's explanatory statement

This amendment makes a consequential amendment to section 108 of the Housing and Regeneration Act 2008 which is needed following the addition of the new offence by clause 3 of the Bill.

BARONESS SCOTT OF BYBROOK

- 9 Clause 3, page 3, line 32, leave out “, after “107(6)” insert “or (6A)”” and insert “–

(a) in the words before paragraph (a), after “107(6)” insert “or (6A)”;

- (b) in paragraph (a) omit the words from “not” to the end”

Member's explanatory statement

This amendment makes a consequential amendment to section 108 of the Housing and Regeneration Act 2008 which is needed following the addition of the new offence by clause 3 of the Bill.

After Clause 3

BARONESS SCOTT OF BYBROOK

10 After Clause 3, insert the following new Clause—

“Power to charge fees

- (1) Section 117 of the Housing and Regeneration Act 2008 (fees) is amended as follows.
- (2) In subsection (1)(a), after “fee” insert “for dealing with an application”.
- (3) After subsection (1) insert—
 - “(1A) The regulator may make dealing with an application for initial registration conditional upon the payment of the fee.”
- (4) In subsection (2) omit “initial or”.
- (5) After subsection (4) insert—
 - “(4A) The amount of a fee payable under this section may be calculated by reference to costs incurred, or likely to be incurred, by the regulator in the performance of any of its functions, including costs unconnected with the fee-payer and costs unconnected with registration or regulation under this Part.”
- (6) In subsection (5)—
 - (a) in paragraph (a), for “expenditure on” substitute “the costs incurred in”;
 - (b) omit paragraph (b) (but not the “and” following it);
 - (c) in paragraph (c), for “to which it relates” substitute “incurred, or likely to be incurred, in the performance of the regulator’s functions”.

Member's explanatory statement

This makes it clear that the regulator may charge fees for dealing with applications for registration (even if unsuccessful) and may require payment in advance. It also makes clear that fees may be set at a level to cover all of the costs of the regulator, including, for example, costs unrelated to the registration process.

Clause 4

LORD YOUNG OF COOKHAM
BARONESS PINNOCK

The above-named Lords give notice of their intention to oppose the Question that Clause 4 stand part of the Bill.

Clause 9

LORD WHITTY

- 11 Clause 9, page 7, line 37, after “housing” insert “including their mental health and wellbeing”

Member's explanatory statement

This amendment seeks to ensure that the impact of unsafe or overcrowded conditions on the mental health of residents of social housing is recognised, by explicitly including mental health and wellbeing in the remit of the health and safety lead.

Clause 10

LORD FOSTER OF BATH

- 12 Clause 10, page 11, line 1, at end insert –
- “(1ZA) The Secretary of State must make the regulations under subsection (1) in respect of registered providers of social housing within one year of the closure of the consultation entitled Consultation and Call for Evidence on Electrical Safety in the Social Rented Sector, published on 8 June 2022 by the Department for Levelling Up, Housing and Communities.”

Member's explanatory statement

This amendment states that the regulations regarding providers of social housing must be made within one year of the closure of the current consultation on this matter.

Schedule 1

BARONESS SCOTT OF BYBROOK

- 13 Schedule 1, page 33, line 3, leave out paragraph 9

Member's explanatory statement

This amendment is consequential on the amendment to Schedule 2, page 35, line 35 in the Minister's name.

BARONESS SCOTT OF BYBROOK

- 14 Schedule 1, page 33, line 18, at end insert –

“Notice of registration or de-registration

- 11A In section 120 (notice), in subsection (1)(c), after “charity” insert “or a limited liability partnership”.”

Member's explanatory statement

This amendment requires the regulator to notify the registrar of companies of registration decisions about limited liability partnerships.

BARONESS SCOTT OF BYBROOK

15 Schedule 1, page 33, line 18, at end insert –

“Accounts

11B (1) Section 129 (companies exempt from audit) is amended as follows.

(2) In the heading, after “companies” insert “or limited liability partnerships”.

(3) In subsection (1)(a), after “charity” insert “or is a limited liability partnership”.

(4) In subsection (2) –

(a) after “directors of the company” insert “or members of the limited liability partnership”;

(b) for “company’s”, in both places, substitute “registered provider’s”;

(c) for “which the company” substitute “which the registered provider”.

(5) In subsection (3), for “has the same meaning as in” substitute “means accounts prepared in accordance with”.

11C (1) Section 130 (exempt companies: accountant’s report) is amended as follows.

(2) In the heading, after “companies” insert “or limited liability partnerships”.

(3) In subsection (2), for “company’s” substitute “registered provider’s”.

(4) In subsection (3)(b), for “company” substitute “registered provider”.

(5) For subsection (6) substitute –

“(6) In this section and sections 131 and 132 –

“firm” means any entity, whether or not a legal person, that is not an individual and includes a body corporate, a corporation sole and a partnership or other unincorporated association;

“body corporate” includes a body incorporated outside the United Kingdom.”

11D In section 131 (exempt companies: reporting accountant) –

(a) in the heading, after “companies” insert “or limited liability partnerships”;

(b) in subsection (1), for “company”, in both places, substitute “registered provider”.

11E (1) Section 132 (application of Companies Act) is amended as follows.

(2) In subsection (1) –

(a) for “company” substitute “registered provider”;

(b) for “company’s” substitute “registered provider’s”.

(3) In subsection (2)(e) –

(a) for “454(4)(b)” substitute “454”;

(b) for the words from “provision” to the end substitute “section (revised accounts and reports),”.

11F In section 133 (exempt companies: extraordinary audit) –

- (a) in the heading, after “companies” insert “or limited liability partnerships”;
 - (b) in subsections (1), (2) and (4), for “company”, in each place, substitute “registered provider”.
- 11G In section 141 (offences), in subsection (6), omit the words from “not” to the end.”

Member's explanatory statement

This amendment amends provisions of the Housing and Regeneration Act 2008 relating to accounts of registered providers so they also apply to a provider which is a limited liability partnership.

Schedule 2

BARONESS SCOTT OF BYBROOK

- 16 Schedule 2, page 35, line 35, after “security)” insert “ –
- (a) in subsection (1), omit the words from “that” to the end;
 - (b)”

Member's explanatory statement

Section 108 of the Housing and Planning Act 2016 contains restrictions on when a person may take steps to enforce security over property of a private registered provider. This amendment extends the provisions so they apply to any private registered provider, whatever form it takes.

BARONESS SCOTT OF BYBROOK

- 17 Schedule 2, page 36, line 5, at end insert –
- “(c) omit subsection (3);”

Member's explanatory statement

This is consequential on amendments made to section 79 of the Housing and Regeneration Act 2008 by clause 5 of the Bill.

BARONESS SCOTT OF BYBROOK

- 18 Schedule 2, page 36, line 5, at end insert –
- “(d) before subsection (4) insert –
- “(3A) In the case of a registered provider that is a charity registered under the Charities Act 2011 which is not a body corporate, the reference to the property of the registered provider is to the property held on the trusts of the charity (and for this purpose “trusts” has the same meaning as in the Charities Act 2011, see section 353 of that Act).”

Member's explanatory statement

This amendment is consequential on the amendment to Schedule 2, page 35, line 35 in the Minister's name.

Clause 16

BARONESS SCOTT OF BYBROOK

- 19 Clause 16, page 14, line 24, leave out subsection (5)

Member's explanatory statement

This amendment is consequential on the amendment in the Minister's name to insert a new clause after clause 16.

After Clause 16

BARONESS SCOTT OF BYBROOK

- 20 After Clause 16, insert the following new Clause—

“Notification of change of control

- (1) The Housing and Regeneration Act 2008 is amended as follows.
- (2) Before section 169D (and the heading immediately before it) insert—

“Notification of change of control

169CB Application of rules about notification of change of control

This group of sections does not apply to local authorities.

169CC Change in board members

- (1) A registered provider must notify the regulator if—
 - (a) the board members of the registered provider change (whether as a result of an appointment or removal of a board member or for any other reason), and
 - (b) following that change, any of the circumstances described in subsection (2) arise.
- (2) The circumstances are that—
 - (a) the number of board members of the provider has increased by more than 50% since the beginning of the relevant period;
 - (b) the number of board members of the provider has decreased by more than 50% since the beginning of the relevant period;
 - (c) more than 50% of the board members of the provider are persons who were not board members of the provider at the beginning of the relevant period.

- (3) For the purposes of this section, the “board members” of a registered provider are—
- (a) in the case of a registered charity which is not a registered company, its charity trustees within the meaning given by section 177 of the Charities Act 2011;
 - (b) in the case of a registered society, the members 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, its directors within the meaning given by section 250 of the Companies Act 2006;
 - (d) in the case of a limited liability partnership, its members.
- (4) For the purposes of this section, “the relevant period” is—
- (a) the period of 12 months ending with the day on which the change mentioned in subsection (1)(a) takes effect (“the 12 month period”), or
 - (b) if the registered provider was not a registered provider throughout the 12 month period, the period—
 - (i) beginning with the day (or, if more than one, the latest day) in the 12 month period on which it became a registered provider, and
 - (ii) ending with the day on which the change mentioned in subsection (1)(a) takes effect.

169CD Change in subsidiary status

A registered provider must notify the regulator each time—

- (a) it becomes a subsidiary of a person, or
- (b) it ceases to be a subsidiary of a person.””

Member's explanatory statement

This amendment places a registered provider under a duty to notify the regulator if certain events occur. The events are ones which may affect control of the provider.

Before Clause 17

BARONESS HAYMAN
LORD BOURNE OF ABERYSTWYTH
LORD FOSTER OF BATH

21 Before Clause 17, insert the following new Clause –

“Standards relating to energy demand

- (1) In section 193(2) of the Housing and Regeneration Act 2008 (standards relating to consumer matters), at the end insert –
 - “(k) energy demand.
 - (2A) In setting standards relating to energy demand, the regulator shall have regard to the Government’s strategy on reducing energy demand for social housing properties.”
- (2) The Secretary of State must, before the end of the period of 12 months beginning with the day on which this Act is passed, publish a strategy on reducing energy demand for social housing properties, to include but not limited to the following –
 - (a) achieving a low-carbon heat target, of 100% of installations of relevant heating appliances in social housing properties being low-carbon by 1 January 2035;
 - (b) achieving an energy-efficiency target, of all social housing properties attaining a minimum EPC C rating by 2028;
 - (c) interim targets relating to the targets in paragraphs (a) and (b) at not less than three-yearly intervals;
 - (d) a programme to support registered social housing providers in engaging with each other, the regulator and a source of advice provided by the Government to encourage energy demand reduction.
- (3) The Secretary of State must, in developing the Government’s strategy on reducing energy demand for social housing properties, consult the Climate Change Committee and its sub-committee on adaptation.”

Member's explanatory statement

This new clause requires the Secretary of State to publish a Social Housing Energy Demand Reduction Strategy to provide for delivery of low carbon heat and energy efficiency targets for social housing properties.

LORD BEST

22★ Before Clause 17, insert the following new Clause –

“Standards relating to homelessness

In section 193(2) of the Housing and Regeneration Act 2008 (standards relating to consumer matters), at the end insert –

“(k) methods of safeguarding and promoting the interests of persons who are, have been or may become homeless in relation to the provision of social housing.””

Member's explanatory statement

This amendment seeks to give the regulator the ability to set consumer standards for registered providers on work to safeguard and promote the interests of people who are, have been or may become homeless.

Clause 17

BARONESS SCOTT OF BYBROOK

23 Clause 17, page 15, line 15, leave out subsection (3)

Member's explanatory statement

This is consequential on the amendment, in the Minister's name, to substitute clause 20 with a new clause.

Clause 19

BARONESS HAYMAN OF ULLOCK

24 Clause 19, page 16, line 3, at end insert –

“(2B) Any direction under subsection (2A) must be laid before both Houses of Parliament.”

Clause 20

BARONESS SCOTT OF BYBROOK

25 Leave out Clause 20 and insert the following new Clause –

“Failure to meet standards: exercise of intervention powers

Omit sections 198A and 198B of the Housing and Regeneration Act 2008.”

Member's explanatory statement

Clause 20 of the Bill amends section 198A to remove the test of “serious detriment” before powers can be exercised. This amendment replaces that with a clause repealing sections 198A and 198B.

These sections set out general grounds for exercise of powers. Instead, amendments are made to the powers themselves (where necessary) to adjust the grounds on which they can be exercised.

Clause 21

BARONESS SCOTT OF BYBROOK

- 26 Clause 21, page 16, line 9, leave out “After section 198B” and insert “Before section 199 (and the heading immediately before it)”

Member's explanatory statement

This is consequential on the amendment, in the Minister's name, to substitute clause 20 with a new clause.

After Clause 21

BARONESS HAYMAN OF ULLOCK

- 27 After Clause 21, insert the following new Clause –

“Performance monitoring: timetabling

The Secretary of State must publish regular timetables for the purposes of performance monitoring.”

Member's explanatory statement

This amendment would ensure that performance is monitored routinely rather than ad hoc.

Clause 22

BARONESS PINNOCK

- 28 Clause 22, page 17, line 31, leave out “24” and insert “48”

Member's explanatory statement

This amendment is intended to probe why an authorised person must only give 24 hours' notice to tenants under this section, whereas providers are given 48 hours' notice.

After Clause 22

LORD BEST
LORD YOUNG OF COOKHAM
BARONESS HAYMAN OF ULLOCK
BARONESS THORNHILL

29 After Clause 22, insert the following new Clause –

“Inspections

- (1) The Housing and Regeneration Act 2008 is amended as follows.
- (2) For sections 201 (inspections) and 202 (inspections: supplemental) substitute –

“201 Inspections

- (1) It is the duty of the regulator to carry out inspections, at such intervals as may be prescribed, of –
 - (a) every registered provider’s performance of its functions in relation to the provision of social housing, and
 - (b) the financial or other affairs of every registered provider.
- (2) Following each such inspection under subsection (1), the regulator shall –
 - (a) assess the performance of the providers, and
 - (b) publish a report of its assessment.
- (3) Regulations may provide that this section does not apply to specified providers or categories of providers in prescribed circumstances.
- (4) The assessment of a registered provider’s performance is to be by reference to such indicators of quality as the Secretary of State may devise or approve.
- (5) The Secretary of State may direct the regulator to devise indicators for the purposes of subsection (4) and submit them to the Secretary of State for approval.
- (6) The regulator must prepare a statement describing the method that it proposes to use in assessing and evaluating the performance of a registered provider under this section, and submit the statement to the Secretary of State for approval.
- (7) Regulations shall provide that in conducting an inspection of a registered provider under this section, the regulator must have regard to any views expressed to him or her by certain persons or class of person which shall include tenants of the provider.

202 Special inspections and investigations

- (1) The regulator may at any time, where he or she considers it appropriate, conduct a special review or investigation, and must do so if the Secretary of State so requests.
- (2) A special inspection or investigation is an inspection (other than a periodic inspection) of or an investigation into—
 - (a) the exercise of its functions by a registered provider,
 - (b) the financial or other affairs of a registered provider,
 - (c) the standard of accommodation provided by a registered provider,
 - (d) other matters relating to the governance or performance of a registered provider.”

Member's explanatory statement

This amendment seeks to impose a duty on the social housing regulator to carry out regular inspections of all registered providers to ensure compliance with regulatory standards.

BARONESS HAYMAN OF ULLOCK
 LORD YOUNG OF COOKHAM
 BARONESS THORNHILL
 LORD WHITTY

30 After Clause 22, insert the following new Clause—

“Persons engaged in the management of social housing to have relevant professional qualifications

After section 217 of the Housing and Regeneration Act 2008 (accreditation), insert—

“217A Professional qualifications and other requirements

- (1) Regulations may provide that a person may not engage in the management of social housing or in specified work in relation to the provision of social housing unless he or she—
 - (a) has appropriate professional qualifications, or
 - (b) satisfies specified requirements.
- (2) Regulations specifying work for the purpose of subsection (1) may make provision by reference to—
 - (a) one or more specified activities, or
 - (b) the circumstances in which activities are carried out.
- (3) A requirement of regulations under this section may, in particular, relate to—
 - (a) the possession of a specified qualification or experience of a specified kind,
 - (b) participation in or completion of a specified programme or course of training, or

- (c) compliance with a specified condition.
- (4) Regulations may make provision for any of the following matters (among others) –
 - (a) the establishment and continuance of a regulatory body,
 - (b) keeping a register of social housing practitioners,
 - (c) education and training before and after qualification,
 - (d) standards of conduct and performance,
 - (e) discipline and fitness to practise,
 - (f) removal or suspension from registration or the imposition of conditions on registration,
 - (g) investigation and enforcement by or on behalf of the regulatory body, and appeals.”

Member's explanatory statement

This amendment seeks to create a power for the Secretary of State to require managers of social housing to have appropriate qualifications and expertise.

Clause 23

BARONESS SCOTT OF BYBROOK

- 31** Clause 23, page 22, line 37, leave out from “of” to “has” in line 38 and insert “paragraph (e) (inserted by paragraph 8A of Schedule 3) insert “, or
(f) that the authority”

Member's explanatory statement

This amendment is consequential on the amendment, in the Minister’s name, to insert a paragraph 8A into Schedule 3 to the Bill (which contains amendments of section 252A of the Housing and Regeneration Act 2008) and also corrects inconsistent use of language in the paragraph inserted into section 252A.

Clause 24

BARONESS HAYMAN OF ULLOCK

- 32** Clause 24, page 23, line 9, leave out “may” insert “must”

Member's explanatory statement

This amendment means that emergency remedial action must take place (rather than may) if the conditions are met.

After Clause 28

BARONESS HAYMAN OF ULLOCK

33 After Clause 28, insert the following new Clause –

“Monitoring of compliance with the Homes (Fitness for Human Habitation) Act 2018

- (1) Within 30 days of this Act being passed, the Secretary of State must by regulations made by statutory instrument make provision about monitoring the compliance of registered social housing providers with the Homes (Fitness for Human Habitation) Act 2018.
- (2) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Schedule 3

BARONESS SCOTT OF BYBROOK

34 Schedule 3, page 36, line 10, at end insert –

“(za) 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 194A, 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 194A.””

Member's explanatory statement

This adjusts the grounds on which the regulator can hold an inquiry and is linked to the repeal of sections 198A and 198B of the Housing and Regeneration Act 2008 (see the amendment, in the Minister's name, to substitute clause 20 with a new clause).

BARONESS SCOTT OF BYBROOK

35 Schedule 3, page 36, line 21, at end insert –

- “6A 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 194A.””

Member's explanatory statement

This adjusts the grounds on which the regulator can require a transfer of management functions and is linked to the repeal of sections 198A and 198B of the Housing and Regeneration Act 2008 (see the amendment, in the Minister's name, to substitute clause 20 with a new clause).

BARONESS SCOTT OF BYBROOK

36 Schedule 3, page 36, line 35, at end insert –

- “8A 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 9) insert –
 - “(e) that the authority has failed to meet a standard under section 193, 194 or 194A.”.
- 8B 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 194A.”
- 8C 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 194A.””

Member's explanatory statement

These amendments adjust the grounds on which the regulator can appoint an adviser to a local authority, require a registered provider to transfer land or amalgamate registered societies and are linked to the repeal of sections 198A and 198B of the Housing and Regeneration Act 2008 (see the amendment, in the Minister's name, to substitute clause 20 with a new clause).

BARONESS SCOTT OF BYBROOK

37 Schedule 3, page 36, line 37, at end insert –

- “(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.””

Member's explanatory statement

This adjusts the grounds on which the regulator can restrict the dealings of a registered provider while an inquiry is in progress and is linked to the repeal of sections 198A and 198B of the Housing and Regeneration Act 2008 (see the amendment, in the Minister's name, to substitute clause 20 with a new clause).

BARONESS SCOTT OF BYBROOK

- 38 Schedule 3, page 37, line 2, leave out ““non-profit” substitute “private”” and insert “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.””

Member's explanatory statement

This adjusts the grounds on which the regulator can restrict the dealings of a registered provider following an inquiry and is linked to the repeal of sections 198A and 198B of the Housing and Regeneration Act 2008 (see the amendment, in the Minister's name, to substitute clause 20 with a new clause).

BARONESS SCOTT OF BYBROOK

- 39 Schedule 3, page 37, line 5, at end insert –

- “(ba) 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 194A.””

Member's explanatory statement

This adjusts the grounds on which the regulator can suspend an officer, employee or agent of a registered provider and is linked to the repeal of sections 198A and 198B of the Housing and Regeneration Act 2008 (see the amendment, in the Minister's name, to substitute clause 20 with a new clause).

BARONESS SCOTT OF BYBROOK

- 40 Schedule 3, page 37, line 14, after “mismanagement” insert “or failure”

Member's explanatory statement

This amendment is consequential on the amendment to Schedule 3, page 37, line 5, in the Minister's name.

BARONESS SCOTT OF BYBROOK

- 41 Schedule 3, page 37, line 19, leave out ““non-profit” substitute “private”” and insert “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 194A.””

Member's explanatory statement

This adjusts the grounds on which the regulator can remove an officer, employee or agent of a registered provider and is linked to the repeal of sections 198A and 198B of the Housing and Regeneration Act 2008 (see the amendment, in the Minister's name, to substitute clause 20 with a new clause).

BARONESS SCOTT OF BYBROOK

- 42 Schedule 3, page 37, line 22, after “mismanagement” insert “or failure”

Member's explanatory statement

This amendment is consequential on the amendment to Schedule 3, page 37, line 19, in the Minister's name.

BARONESS SCOTT OF BYBROOK

- 43 Schedule 3, page 37, line 32, at end insert –
- “(aa) in subsection (1)(b), omit the “or”;
 - (ab) 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 194A, or”;
 - (ac) 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.””

Member's explanatory statement

This widens the power of the regulator to appoint officers of a registered provider so that an appointment can be made where a provider has breached a regulatory standard or, for some forms of registered provider, where none of the existing officers are a “board member” (as defined).

BARONESS SCOTT OF BYBROOK

44 Schedule 3, page 37, line 33, after “subsection (4)(a)” insert “–

- (i) leave out “on expiry”;
- (ii)”

Member's explanatory statement

This is to make it clear that the regulator does not need to wait until the expiry of a term of appointment of an officer before renewing the appointment.

BARONESS SCOTT OF BYBROOK

45 Schedule 3, page 37, line 34, at end insert –

“15 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 194A.”;

(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 194A.”

16 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).””

Member's explanatory statement

This adjusts the grounds on which the regulator can give a censure notice to a local authority and is linked to the repeal of sections 198A and 198B of the Housing and Regeneration Act 2008 (see the amendment, in the Minister’s name, to substitute clause 20 with a new clause).

After Clause 29

BARONESS SCOTT OF BYBROOK

46 After Clause 29, insert the following new Clause –

“Meaning of “subsidiary”

- (1) In section 271 of the Housing and Regeneration Act 2008 (meaning of subsidiary and associate), for subsections (1) to (5) substitute –
 - “(1) A person (“A”) is a subsidiary of another person “B” if –
 - (a) A is a subsidiary undertaking in relation to B for the purposes of the Companies Acts (see section 1162 of, and Schedule 7 to, the Companies Act 2006), or
 - (b) A would be a subsidiary undertaking in relation to B for those purposes if “undertaking” were defined for those purposes to mean any person.”
- (2) For the purposes of section 74 of the Housing and Regeneration Act 2008, the amendment in subsection (1) applies in relation to leases granted on or after 10 June 2022.”

Member's explanatory statement

This widens the meaning of “subsidiary” in Part 2 of the Housing and Regeneration Act 2008 so, amongst other things, it applies to bodies other than companies.

After Clause 30

LORD WHITTY

47 After Clause 30, insert the following new Clause –

“Registered provider consultation by ballot

- (1) Where a registered provider consults social tenants by ballot, whether in accordance with any enactment or otherwise, the regulator may intervene to ensure the consultation is conducted reasonably, transparently and equitably, including in relation to –
 - (a) the wording and timing of any questions on the ballot,
 - (b) the presentation of options,
 - (c) the provision of information on each option before the ballot,
 - (d) the equitable funding of advocacy of all options, and
 - (e) the identification of all entitled to respond to the consultation.
- (2) This section applies to, among other things, major proposals for regeneration, demolition or retrofit, and ballots on stock transfer or equivalent.

- (3) Social tenants may appeal to the regulator or the housing ombudsman on matters under this section.”

Member's explanatory statement

In instances where ballots on regeneration or stock transfer have been conducted, there have been complaints about the form of the question, about who is entitled to vote and about resources and one-sided information funded by the provider or developer. This provision would help ensure a balance of information and equity of being able to make the case to all who will be affected.

Schedule 4

BARONESS HAYMAN OF ULLOCK

- 48 Schedule 4, page 41, line 18, at end insert –

“(3) The Secretary of State must publish an annual statement which includes the number of successful and unsuccessful appeals in any given year.”

Member's explanatory statement

This amendment means that the Secretary of State must publish an annual statement which includes the number of successful and unsuccessful appeals in any given year.

Clause 31

BARONESS SCOTT OF BYBROOK

- 49 Clause 31, page 30, line 13, at end insert –

“11C A duty of the housing ombudsman to monitor compliance with a code of practice described in item 11A that it has issued.”

Member's explanatory statement

This requires a housing ombudsman scheme to place a duty on a housing ombudsman to monitor compliance with a code of practice on complaint handling (if the ombudsman has issued one).

BARONESS SCOTT OF BYBROOK

- 50 Clause 31, page 30, line 13, at end insert –

“(2A) In paragraph 2, in sub-paragraph (1), in item 15, for “expenses of the scheme” substitute “costs of the person administering the scheme and the scheme’s housing ombudsman”.”

Member's explanatory statement

This amendment is consequential on the amendment to Clause 31, page 30, line 21 in the Minister’s name.

BARONESS SCOTT OF BYBROOK

51 Clause 31, page 30, line 21, at end insert –

“(4) In paragraph 11 –

(a) after sub-paragraph (1) insert –

“(1ZA) The amount of a subscription payable by a member may be calculated by reference to costs incurred, or likely to be incurred, by the person administering the scheme and the scheme’s housing ombudsman in carrying out any of their functions, including costs unconnected with the member and costs unconnected with the operation of the scheme.”;

(b) in sub-paragraph (1B), for “expenses”, in both places, substitute “costs”;

(c) in sub-paragraph (1C) –

(i) for “expenses”, in the first place it occurs, substitute “costs”;

(ii) for “expenses of the scheme” substitute “costs”.”

Member's explanatory statement

This makes it clear that subscriptions payable by members of a housing ombudsman scheme may be set at a level to cover all of the costs of the scheme administrator and the ombudsman, including, for example, enforcement costs and other costs unrelated to the scheme.

After Clause 31

BARONESS PINNOCK
BARONESS THORNHILL

52 After Clause 31, insert the following new Clause –

“Review of impact of the Act

- (1) Within one year of the day on which this Act is passed, the Secretary of State must carry out a review of the impact of this Act.
- (2) The review must make an assessment as to whether the Act has improved the safety and quality of social housing both in its own terms and in comparison to the safety and quality of housing in the private rented sector.”

Member's explanatory statement

This amendment would require the Government to undertake a review of the impact of this Act.

BARONESS HAYMAN OF ULLOCK

53 After Clause 31, insert the following new Clause –

“Assessment of the impact of the timing of this legislation

Within 30 days of this Act being passed, the Secretary of State must publish an assessment of the impact of the timing of this Act.”

Schedule 5

BARONESS SCOTT OF BYBROOK

54 Schedule 5, page 42, line 16, at end insert—

“10A In section 122 (payments to members etc), in subsection (6), for “registered company or registered society” substitute “registered provider”.”

Member's explanatory statement

This expands the provision about the recovery of wrongful gifts or payments so it applies to all non-profit registered providers.

BARONESS SCOTT OF BYBROOK

55 Schedule 5, page 42, line 16, at end insert—

“10B In section 135 (charity accounts), in subsection (1), omit “non-profit”.”

Member's explanatory statement

The amendments to section 115 of the Housing and Regeneration Act 2008 made by clause 7 of the Bill remove the automatic designation of charities as “non-profit organisations”. This amendment is to acknowledge that and to ensure that provisions of the 2008 Act about accounts apply to all registered charities, regardless of their designation as “non-profit”.

BARONESS SCOTT OF BYBROOK

56 Schedule 5, page 42, line 23, after “notifications)” insert “—

- (a) for “169C”, in both places, substitute “169CD”;
- (b)”

Member's explanatory statement

This amendment is consequential on the amendment in the Minister’s name to insert a new clause after clause 16.

BARONESS SCOTT OF BYBROOK

57 Schedule 5, page 43, line 13, at end insert—

“(za) in subsection (2) omit “applicable to it”;

Member's explanatory statement

This amendment removes some words which are not needed and is to achieve greater consistency of language in Part 2 of the Housing and Regeneration Act 2008.

BARONESS SCOTT OF BYBROOK

- 58 Schedule 5, page 43, line 26, after “(1)” insert “—
(a) in paragraph (a), omit “applicable to it”;
(b)”

Member's explanatory statement

This amendment removes some words which are not needed and is to achieve greater consistency of language in Part 2 of the Housing and Regeneration Act 2008.

BARONESS SCOTT OF BYBROOK

- 59 Schedule 5, page 43, line 28, at end insert—
“27A In section 256 (restrictions on dealings during an inquiry), in subsection (2), for “has reasonable grounds for believing” substitute “is satisfied”.”

Member's explanatory statement

This amends the language used to express the standard which must be met for exercise of the power in order to achieve greater consistency within Part 2 of the Housing and Regeneration Act 2008.

BARONESS SCOTT OF BYBROOK

- 60 Schedule 5, page 43, line 28, at end insert—
“27B In section 258 (restrictions on dealings: supplemental), in subsection (3), omit the words from “not” to the end.”

Member's explanatory statement

This amendment updates section 258 of the Housing and Regeneration Act 2008 so that it states that an offence under that section is punishable on summary conviction with an unlimited fine (which is currently the case by virtue of section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012).

BARONESS SCOTT OF BYBROOK

- 61 Schedule 5, page 43, line 29, at end insert—
“28A In section 259 (suspension during inquiry), in subsection (2), for “has reasonable grounds for believing” substitute “is satisfied”.”

Member's explanatory statement

This amends the language used to express the standard which must be met for exercise of powers in order to achieve greater consistency within Part 2 of the Housing and Regeneration Act 2008.

BARONESS SCOTT OF BYBROOK

62 Schedule 5, page 43, line 29, at end insert –

“28B In section 264 (offence of acting as an officer while disqualified), in subsection (2)(a), omit “not exceeding the statutory maximum”.”

Member's explanatory statement

This amendment updates section 264 of the Housing and Regeneration Act 2008 so that it states that, on summary conviction, an offence under that section is punishable with an unlimited fine (which is currently the case by virtue of section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012).

BARONESS SCOTT OF BYBROOK

63 Schedule 5, page 43, line 29, at end insert –

“28C In section 269 (appointment of new officers), in subsection (1)(c), for “thinks” substitute “is satisfied”.

28D In section 269A (local authorities: censure during or following inquiry), in subsection (2), for “has reasonable grounds for believing” substitute “is satisfied”.”

Member's explanatory statement

These amend the language used to express the standard which must be met for exercise of powers in order to achieve greater consistency within Part 2 of the Housing and Regeneration Act 2008.

BARONESS SCOTT OF BYBROOK

64 Schedule 5, page 45, line 16, leave out paragraph 37

Member's explanatory statement

This amendment is consequential on the amendment, in the Minister's name, to insert a paragraph 8A into Schedule 3 to the Bill (which contains amendments of section 252A of the Housing and Regeneration Act 2008).

Clause 35

BARONESS HAYMAN OF ULLOCK

65 Leave out Clause 35 and insert the following new Clause –

“Commencement

This Act comes into force on the day that it is passed.”

Member's explanatory statement

This amendment means that all sections come into force on the day this Act is passed.

Social Housing (Regulation) Bill [HL]

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

2 September 2022

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