

Social Housing (Regulation) Bill [HL]

COMMONS AMENDMENTS

[The page and line references are to Bill 177, the Bill as first printed for the Commons]

Clause 4

COMMONS AMENDMENT 1

- 1 Clause 4, page 3, line 40, leave out “follows” and insert “set out in subsections (2) to (6)”

COMMONS AMENDMENT 2

- 2 Clause 4, page 4, line 16, at end insert –
“(7) In section 202 of the Housing and Regeneration Act 2008 (inspections: supplemental) omit subsections (4) to (7).”

Clause 12

COMMONS AMENDMENT 3

- 3 Clause 12, page 11, line 30, leave out “with the day after the day on which” and insert “when”

COMMONS AMENDMENT 4

- 4 Clause 12, page 12, leave out lines 5 and 6 and insert –
“(d) a notice of the appointment of an administrator of the provider under paragraph 14 or 22 of Schedule B1 to the Insolvency Act 1986 is filed with the court under paragraph 18 or 29 of that Schedule;”

COMMONS AMENDMENT 5

5 Clause 12, page 12, line 41, at end insert –

“(ea) in subsection (3), for the words from “period,” to the end substitute “period if –

- (a) the regulator has made reasonable enquiries with a view to locating secured creditors of the registered provider, and
- (b) where the regulator located one or more such creditors, each of them has consented to the extension.”;

COMMONS AMENDMENT 6

6 Clause 12, page 12, line 41, at end insert –

“(eb) in subsection (5), omit the words from “if” to the end;”

COMMONS AMENDMENT 7

7 Clause 12, page 12, line 43, at end insert –

“(4) In section 147 (further moratorium), in subsection (3), for the words from “period,” to the end substitute “period if –

- (a) the regulator has made reasonable enquiries with a view to locating secured creditors of the registered provider, and
- (b) where the regulator located one or more such creditors, each of them has consented to the further moratorium.”

COMMONS AMENDMENT 8

8 Clause 12, page 12, line 43, at end insert –

“(5) In section 151 (appointment of interim manager during moratorium), in subsection (4), for paragraph (b) (but not the “or” following it) substitute –

“(b) when the regulator notifies the interim manager that there are proposals under section 152 which are agreed proposals,”.

(6) In section 153 (procedure for proposals made during moratorium) –

(a) in subsection (1), after paragraph (b) insert –

“(ba) if the regulator is able to locate any secured creditors of the registered provider after making reasonable enquiries, those creditors,”;

(b) after subsection (1) insert –

“(1A) If no secured creditors are located for the purposes of subsection (1), the proposals made by the regulator following

- the consultation required by that subsection are agreed proposals for the purposes of this group of sections.”;
- (c) in subsection (2)—
 - (i) for the words before paragraph (a) substitute “Where the regulator locates one or more secured creditors of the registered provider for the purposes of subsection (1), the regulator must, before making proposals, send a copy of draft proposals to—”;
 - (ii) for paragraph (b) (but not the “and” following it) substitute—
 - “(b) the secured creditors located for the purposes of subsection (1),”;
 - (d) in subsection (3), in the words before paragraph (a) for the words from “The regulator” to “bringing” substitute “If the regulator sends draft proposals under subsection (2), the regulator must also make arrangements for bringing those”;
 - (e) for subsection (4) substitute—
 - “(4) If each secured creditor to whom draft proposals were required to be sent agrees to them by notice to the regulator, the draft proposals become agreed proposals for the purposes of this group of sections.”;
 - (f) in subsection (5)—
 - (i) in the words before paragraph (a) for “Proposals” substitute “Draft proposals”;
 - (ii) in paragraph (a), for “proposals were sent” substitute “draft proposals were required to be sent”;
 - (g) in subsection (6)(b)—
 - (i) for “its” substitute “any”;
 - (ii) for “the original” substitute “draft”;
 - (h) for subsection (8) substitute—
 - “(8) The regulator may make proposals amending agreed proposals; and this section and section 152 apply to such proposals.””

COMMONS AMENDMENT 9

- 9 Clause 12, page 12, line 43, at end insert—
- “(7) In section 158 (assistance by regulator in connection with proposals), in subsection (1), for “the agreement of proposals” substitute “the regulator deciding whether to exercise the power under section 152 to make proposals and (if proposals are made) the proposals becoming agreed proposals”.”

Clause 21

COMMONS AMENDMENT 10

- 10 Clause 21, page 17, line 22, at end insert “(“relevant individuals”)

COMMONS AMENDMENT 11

- 11 Clause 21, page 17, line 26, leave out from beginning to “, and” in line 27 and insert “relevant individuals,”

COMMONS AMENDMENT 12

- 12 Clause 21, page 17, line 28, leave out “such” and insert “relevant”

COMMONS AMENDMENT 13

- 13 Clause 21, page 17, line 29, at end insert –

- “(3) Standards under subsection (1) may require registered providers to secure that their relevant managers –
 - (a) have a specified qualification in housing management or type of qualification in housing management, or
 - (b) are working towards such a qualification or type of qualification.
- (4) A “relevant manager” means –
 - (a) a senior housing executive, or
 - (b) a senior housing manager.
- (5) A qualification or type of qualification specified for a senior housing executive may only be –
 - (a) a foundation degree, or
 - (b) a qualification or type of qualification regulated by the Office of Qualifications and Examinations Regulation which is of a level not exceeding level 5.
- (6) A qualification or type of qualification specified for a senior housing manager may only be a qualification or type of qualification regulated by the Office of Qualifications and Examinations Regulation which is of a level not exceeding level 4.
- (7) Except as provided by subsections (3) to (6), standards under subsection (1) may not require registered providers to comply with rules about the qualifications to be required of relevant individuals.
- (8) In this section, “senior housing executive” means a relevant individual who –
 - (a) is an employee or officer of the registered provider,
 - (b) has responsibility (solely or jointly) for the day to day management of the provision of services in connection with the management of social housing provided by the provider, and
 - (c) is part of the provider’s senior management.
- (9) For the purposes of this section, an individual is part of a registered provider’s senior management if the individual plays a significant role in –
 - (a) the making of decisions about how the whole or a substantial part of the activities of the provider which relate to social housing are to be managed or organised, or

- (b) the management or organisation of the whole or a substantial part of such activities.
- (10) In this section, “senior housing manager” means a relevant individual who—
 - (a) is an employee of the registered provider, and
 - (b) is a senior housing and property manager for the registered provider.
- (11) For the purposes of subsection (10)(b), whether an individual is a senior housing and property manager is to be determined by reference to the description of the occupation of senior housing and property management published by the Institute for Apprenticeships and Technical Education under section ZA10(5) of the Apprenticeships, Skills, Children and Learning Act 2009.
- (12) The references in subsections (5) and (6) to the level of a qualification are to the level assigned to a qualification by virtue of general conditions set and published by the Office of Qualifications and Examinations Regulation under section 134 of the Apprenticeships, Skills, Children and Learning Act 2009.
- (13) For the purposes of this section, “employee” includes a person employed under a contract of apprenticeship.”

Clause 22

COMMONS AMENDMENT 14

- 14** Clause 22, page 17, line 36, at end insert “, including standards requiring information to be published”

COMMONS AMENDMENT 15

- 15** Clause 22, page 18, line 3, at end insert “including information concerning—
- (i) their tenants’ rights in connection with those things, and
 - (ii) how to make complaints against registered providers,”

Clause 24

COMMONS AMENDMENT 16

- 16** Page 18, line 29, leave out Clause 24

After Clause 25

COMMONS AMENDMENT 17

- 17** Insert following new Clause—

“Secretary of State’s duty to give direction about providing information to tenants

- (1) The Secretary of State must give a direction to the Regulator of Social Housing under section 197(2A) of the Housing and Regeneration Act 2008 about setting a standard under section 194B of that Act (standards relating to information and transparency) for the purpose of securing that registered providers of social housing are required to provide their tenants of low cost rental accommodation with information about –
 - (a) their tenants’ rights in connection with the low cost rental accommodation and with facilities or services provided in connection with that accommodation, and
 - (b) how their tenants can make a complaint against them.
- (2) The Secretary of State must give the direction before the end of the period of six months beginning with the day on which this Act is passed.
- (3) In this section –

“low cost rental accommodation” means accommodation which –

 - (a) is low cost rental accommodation (as defined in section 69 of the Housing and Regeneration Act 2008) provided by a registered provider of social housing, and
 - (b) is not low cost home ownership accommodation (as defined in section 70 of that Act);

“tenant”, in relation to low cost rental accommodation, includes other occupiers.”

Clause 28

COMMONS AMENDMENT 18

18 Clause 28, page 22, leave out lines 3 to 8 and insert –

- “(8) Equipment or materials taken onto premises by virtue of subsection (7) may be left in a place on the premises until the survey has been carried out provided that –
- (a) leaving the equipment or the materials in that place does not significantly impair the ability of an occupier to use the premises, or
 - (b) leaving the equipment or the materials on the premises is necessary for the purposes of carrying out the survey and it is not possible to leave it or them in a place that does not significantly impair the ability of an occupier to use the premises.”

COMMONS AMENDMENT 19

19 Clause 28, page 22, line 8, at end insert –

- “(9) Where the premises include common parts of a building, references in subsection (8) to the ability of an occupier to use the premises include the

ability of an occupier of a dwelling that has use of the common parts to use those parts or the dwelling.

- (10) In this section, “common parts”, in relation to a building, includes the structure and exterior of that building and any common facilities provided (whether or not in the building) for persons who occupy the building.”

COMMONS AMENDMENT 20

20 Clause 28, page 22, leave out lines 31 to 36 and insert –

- “(5) Equipment or materials taken onto premises by virtue of subsection (4) may be left in a place on the premises until the survey has been carried out provided that –
- (a) leaving the equipment or the materials in that place does not significantly impair the ability of an occupier to use the premises, or
 - (b) leaving the equipment or the materials on the premises is necessary for the purposes of carrying out the survey and it is not possible to leave it or them in a place that does not significantly impair the ability of an occupier to use the premises.”

COMMONS AMENDMENT 21

21 Clause 28, page 22, line 36, at end insert –

- “(5A) Where the premises include common parts of a building (as defined in section 199A), references in subsection (5) to the ability of an occupier to use the premises include the ability of an occupier of a dwelling that has use of the common parts to use those parts or the dwelling.”

After Clause 29

COMMONS AMENDMENT 22

22 Insert following new Clause –

“Action after inspection

- (1) The Housing and Regeneration Act 2008 is amended as follows.
- (2) In section 202 (inspections: supplemental), omit subsections (1) to (3).
- (3) In section 203(12) (definition of “inspector”), after “this section” insert “and section 203A”.
- (4) After section 203 insert –

“203A Action after inspection

- (1) After an inspection of a registered provider is carried out by an inspector under section 201, the inspector must produce –
 - (a) a written summary of the inspector’s findings, and
 - (b) a written report about any matters specified by the regulator.

- (2) The summary and any report must be in the form specified by the regulator.
- (3) The regulator may specify matters, or the form of a summary or report, for the purposes of inspections generally or for the purposes of a particular inspection or description of inspection.
- (4) The regulator must give the registered provider a copy of the summary of the inspector's findings.
- (5) The regulator must also give the registered provider –
 - (a) a copy of the inspector's report, or
 - (b) a notice confirming that no matters were specified for the purposes of subsection (1)(b).
- (6) The regulator may publish –
 - (a) all or part of the summary of the inspector's findings,
 - (b) (where relevant) all or part of the inspector's report, and
 - (c) related information.”

Clause 31

COMMONS AMENDMENT 23

23 Clause 31, page 29, line 41, leave out from beginning to end of line 6 on page 30 and insert –

- “(5) Equipment or materials taken onto premises by virtue of subsection (4)(b) may be left in a place on the premises until the emergency remedial action has been taken provided that –
- (a) leaving the equipment or the materials in that place does not significantly impair the ability of an occupier to use the premises, or
 - (b) leaving the equipment or the materials on the premises is necessary for the purposes of taking the emergency remedial action and it is not possible to leave it or them in a place that does not significantly impair the ability of an occupier to use the premises.”

COMMONS AMENDMENT 24

24 Clause 31, page 30, line 6, at end insert –

- “(6) Where the premises include common parts of a building (as defined in section 225C), references in subsection (5) to the ability of an occupier to use the premises include the ability of an occupier of a dwelling that has use of the common parts to use those parts or the dwelling.”

COMMONS AMENDMENT 25

25 Clause 31, page 30, leave out lines 29 to 36 and insert –

- “(5) Equipment or materials taken onto premises by virtue of subsection (4) may be left in a place on the premises until the emergency remedial action has been taken provided that –
- (a) leaving the equipment or the materials in that place does not significantly impair the ability of an occupier to use the premises, or
 - (b) leaving the equipment or the materials on the premises is necessary for the purposes of taking the emergency remedial action and it is not possible to leave it or them in a place that does not significantly impair the ability of an occupier to use the premises.”

COMMONS AMENDMENT 26

26 Clause 31, page 30, line 36, at end insert –

- “(5A) Where the premises include common parts of a building (as defined in section 225C), references in subsection (5) to the ability of an occupier to use the premises include the ability of an occupier of a dwelling that has use of the common parts to use those parts or the dwelling.”

After Clause 39

COMMONS AMENDMENT 27

27 Insert following new Clause –

“Power of housing ombudsman to issue guidance to scheme members

- (1) The Housing Act 1996 is amended as follows.
- (2) In the italic heading before section 51, for “complaints” substitute “ombudsman”.
- (3) After section 51 insert –

“51ZA Power of housing ombudsman to issue guidance to scheme members

- (1) This section applies where a scheme is approved by the Secretary of State under Schedule 2.
- (2) The housing ombudsman may issue to the members of the scheme guidance as to good practice in the carrying on of housing activities covered by the scheme.
- (3) Before issuing, revising or replacing guidance under this section, the housing ombudsman must consult –
 - (a) the Regulator of Social Housing,
 - (b) members of the scheme, and
 - (c) individuals who may make complaints under the scheme.
- (4) If the housing ombudsman issues, revises or replaces guidance under this section, the housing ombudsman must publish the

guidance, the revised guidance or (as the case may be) the replacement guidance.

- (5) Subsection (7) applies if—
 - (a) an individual makes a complaint against a member of the scheme,
 - (b) the complaint is made under the scheme or the conditions in subsection (6) are met in relation to the complaint, and
 - (c) it appears to the housing ombudsman that the complaint relates to a matter to which guidance issued by the ombudsman under this section relates.
- (6) The conditions referred to in subsection (5)(b) are that—
 - (a) the complaint is made to the member of the scheme,
 - (b) the complaint is one that the individual could subsequently make under the scheme, and
 - (c) the individual has notified the ombudsman about the complaint.
- (7) The housing ombudsman may order the member of the scheme to—
 - (a) assess whether the member’s policies and practices in relation to the matter mentioned in subsection (5)(c) are consistent with the guidance issued by the ombudsman under this section in relation to that matter, and
 - (b) within a period specified in the order, submit to the ombudsman a written statement of the results of the assessment.
- (8) If a member of the scheme fails to comply with an order under subsection (7) within the period specified in the order, the housing ombudsman may order the member to publish in such manner as the ombudsman sees fit a statement that the member has failed to comply with the order.
- (9) If a member of the scheme fails to comply with an order under subsection (8), the housing ombudsman may—
 - (a) take such steps as the ombudsman considers appropriate to publish what the member ought to have published, and
 - (b) recover from the member the costs of doing so.
- (10) In this section, “the housing ombudsman” means the housing ombudsman appointed in accordance with the scheme.””

COMMONS AMENDMENT 28

28 Insert following new Clause—

“Social housing leases: remedying hazards

After section 10 of the Landlord and Tenant Act 1985 insert—

“Implied term as to remedying of hazards

10A Remedying of hazards occurring in dwellings let on relevant social housing leases

- (1) This section applies to a lease of a dwelling if—
 - (a) the dwelling is in England,
 - (b) the lease is a relevant social housing lease, and
 - (c) section 9A—
 - (i) applies to the lease (see section 9B), or
 - (ii) would apply to the lease if the provision in section 9B(3) did not exist.
- (2) There is implied in the lease a covenant by the lessor that the lessor will comply with all prescribed requirements that are applicable to that lease.
- (3) The Secretary of State must make regulations which require the lessor under a lease to which this section applies to take action, in relation to prescribed hazards which affect or may affect the leased dwelling, within the period or periods specified in the regulations.
- (4) Regulations under subsection (3) are enforceable against lessors only through actions for breach of the covenant that is implied by subsection (2).
- (5) In any proceedings for a breach of the covenant that is implied by subsection (2), it is a defence for the lessor to prove that the lessor used all reasonable endeavours to avoid that breach.
- (6) For the purposes of this section a lease is a “relevant social housing lease” at any time when—
 - (a) the lessor under the lease is a registered provider of social housing, and
 - (b) the dwelling leased under the lease—
 - (i) is social housing, but
 - (ii) is not low cost home ownership accommodation.
- (7) In this section and section 10B—

“lease”, “lessor” and “lessee” have the same meanings as in section 9A (see section 9A(9));

“low cost home ownership accommodation” has the meaning given in section 70 of the Housing and Regeneration Act 2008;

“prescribed hazard” has the same meaning as in section 10 (see section 10(2) and (3));

“prescribed requirement” means a requirement prescribed in regulations under subsection (3);

“social housing” has the same meaning as in Part 2 of the Housing and Regeneration Act 2008 (see sections 68 and 72 of that Act).

10B Regulations under section 10A: supplementary provision

- (1) Regulations under section 10A(3) may apply to –
 - (a) leases granted before the day when section (*Social housing leases: remedying hazards*) of the Social Housing (Regulation) Act 2023 came into force;
 - (b) prescribed hazards which began before that day;
 - (c) only some descriptions of prescribed hazards.
- (2) Regulations under section 10A(3) may –
 - (a) specify a period that is not of a specific duration (for example a reasonable or appropriate period, including a period decided by the lessor or another person);
 - (b) specify two (or more) periods in relation to particular action.
- (3) Regulations under section 10A(3) may (in particular) –
 - (a) require the lessor to take particular action, or action that is intended to produce a particular outcome, in relation to a prescribed hazard;
 - (b) require the lessor to take action in relation to a prescribed hazard that is not of itself intended to remedy the hazard, for example by requiring the lessor –
 - (i) to investigate whether or how a prescribed hazard is affecting the leased dwelling, or
 - (ii) to secure that the lessee and any other members of the lessee’s household are provided with alternative accommodation at no cost to them;
 - (c) require the lessor to take action in relation to a prescribed hazard only –
 - (i) in particular circumstances, or
 - (ii) if particular conditions are met;
 - (d) provide that the lessor is not required to take action in relation to a prescribed hazard –
 - (i) in particular circumstances, or
 - (ii) if particular conditions are met.
- (4) The Secretary of State may by regulations –
 - (a) provide for section 10A not to apply to particular descriptions of leases;
 - (b) make provision, in relation to the covenant that is implied by section 10A(2), which corresponds to any provision made by section 9A(4) to (8).
- (5) A power to make regulations under section 10A or this section includes power to make –
 - (a) incidental, transitional or saving provision;
 - (b) different provision for different purposes.

- (6) The power to make transitional or saving provision may (in particular) be used to make provision about situations where the covenant in section 10A(2) –
- (a) begins to be implied in a lease after its grant because it becomes a relevant social housing lease;
 - (b) ceases to be implied in a lease because it ceases to be a relevant social housing lease (including provision to save the lessor’s liability for any breach of the covenant occurring before it ceases to be implied).
- (7) Regulations under section 10A or this section are to be made by statutory instrument.
- (8) A statutory instrument containing regulations under section 10A or this section may not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.””

Clause 43

COMMONS AMENDMENT 29

- 29 Clause 43, page 36, line 34, after “Section” insert “(*Secretary of State’s duty to give direction about providing information to tenants*) and”

COMMONS AMENDMENT 30

- 30 Clause 43, page 36, line 34, after “Section 39” insert “and (*Power of housing ombudsman to issue guidance to scheme members*)”

Clause 44

COMMONS AMENDMENT 31

- 31 Clause 44, page 37, line 10, leave out subsection (2)

Schedule 2

COMMONS AMENDMENT 32

- 32 Schedule 2, page 41, line 11, leave out “and signed, by the petitioner,” and insert –
“(aa) be signed by, or on behalf of, the petitioner,”

COMMONS AMENDMENT 33

- 33 Schedule 2, page 41, leave out line 14

COMMONS AMENDMENT 34

- 34 Schedule 2, page 41, line 17, leave out “(b),” and insert “(aa), (b) or”

COMMONS AMENDMENT 35

35 Schedule 2, page 41, line 17, leave out “or (d)”

COMMONS AMENDMENT 36

36 Schedule 2, page 41, line 25, leave out “and signed, by the registered provider,” and insert—

“(aa) be signed by, or on behalf of, the registered provider,”

COMMONS AMENDMENT 37

37 Schedule 2, page 41, leave out line 28

COMMONS AMENDMENT 38

38 Schedule 2, page 41, line 31, leave out “(b),” and insert “(aa), (b) or”

COMMONS AMENDMENT 39

39 Schedule 2, page 41, line 31, leave out “or (d)”

COMMONS AMENDMENT 40

40 Schedule 2, page 42, line 3, leave out from “writing,” to end of line 4 and insert—

“(aa) be signed by, or on behalf of, the person who made the ordinary administration application,”

COMMONS AMENDMENT 41

41 Schedule 2, page 42, leave out line 7

COMMONS AMENDMENT 42

42 Schedule 2, page 42, line 10, leave out “(b),” and insert “(aa), (b) or”

COMMONS AMENDMENT 43

43 Schedule 2, page 42, line 10, leave out “or (d)”

COMMONS AMENDMENT 44

44 Schedule 2, page 42, line 23, leave out “and signed, by the person making the appointment,” and insert—

“(aa) be signed by, or on behalf of, the person making the appointment,”

COMMONS AMENDMENT 45

45 Schedule 2, page 42, leave out line 30

COMMONS AMENDMENT 46

46 Schedule 2, page 42, line 33, leave out “(b),” and insert “(aa), (b) or”

COMMONS AMENDMENT 47

47 Schedule 2, page 42, line 33, leave out “or (d)”

COMMONS AMENDMENT 48

48 Schedule 2, page 43, line 4, leave out from “and” to end of line 5 and insert –
“(aa) be signed by, or on behalf of, the person intending to enforce the security.”

COMMONS AMENDMENT 49

49 Schedule 2, page 43, leave out lines 6 and 7

COMMONS AMENDMENT 50

50 Schedule 2, page 43, line 10, after “paragraph” insert “(aa)”

COMMONS AMENDMENT 51

51 Schedule 2, page 43, line 10, leave out “(b)”

Schedule 5

COMMONS AMENDMENT 52

52 Schedule 5, page 52, line 25, at end insert –
“(aa) in subsection (2)(f), for “and informing tenants” substitute “tenants and providing them with information in connection with such consultation”;

COMMONS AMENDMENT 53

53 Schedule 5, page 54, line 34, at end insert –
“43A After section 276A (inserted by section 34) insert –

“276B Data protection

- (1) This section applies to a duty or power to process information where the duty or power is imposed or conferred by or by virtue of any provision of this Part.
- (2) A duty or power to which this section applies does not operate to require or authorise the processing of information which would contravene the data protection legislation (but the duty or power is to be taken into account in determining whether the processing would contravene that legislation).
- (3) In this section “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”

Title

COMMONS AMENDMENT 54

- 54** Title, line 2, after “complaints;” insert “about the powers and duties of a housing ombudsman appointed under an approved scheme;”

COMMONS AMENDMENT 55

- 55** Title, line 2, after “complaints;” insert “about hazards affecting social housing;”

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2 March 2023

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