

jAcr11

**1 Fundamental objectives**

- (1) Section 92K of the Housing and Regeneration Act 2008 (fundamental objectives) is amended as follows.
- (2) In subsection (3)—
  - (a) in paragraph (a), after “well-managed” insert “, safe”;
  - (b) in paragraph (c), omit the final “and”;
  - (c) after paragraph (c) insert—
    - “(ca) to ensure that registered providers act in a transparent manner in relation to their tenants of social housing, and”.
- (3) In subsections (2)(a) and (3)(d), omit “of social housing”.

**2 Advisory panel**

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After section 96 of the Housing and Regeneration Act 2008 insert—

**“96A Advisory panel**

- (1) The regulator must establish a panel of persons called “the Advisory Panel”.
- (2) The Panel may provide information and advice to the regulator on a matter connected with the regulator’s functions (whether or not it is requested to do so by the regulator).
- (3) The reference in subsection (2) to a matter connected with the regulator’s functions includes anything which could have a significant impact on registered providers or the provision of social housing.
- (4) The regulator must appoint the following persons to the Panel—
  - (a) persons appearing to the regulator to represent the interests of—
    - (i) registered providers,
    - (ii) secured creditors of registered providers,
    - (iii) tenants of social housing,
    - (iv) local housing authorities,
  - (b) the Greater London Authority,
  - (c) the HCA, and
  - (d) the Secretary of State.
- (5) The regulator may appoint such other persons to the Panel as it thinks fit to appoint.
- (6) The regulator may make payments to persons who are members of the Panel in respect of any expenses they incur in connection with their appointment to the Panel.

- (7) The regulator must make arrangements requiring any person who is a member of the Panel to declare any financial or other personal interest relevant to the regulator’s functions.”

### 3 Relationship between Regulator and housing ombudsman

- (1) The Housing and Regeneration Act 2008 is amended as specified in subsections (2) to (5).
- (2) After section 100G insert—

*“Relationship with housing ombudsman*

#### 100H Relationship with housing ombudsman

- (1) The regulator and a housing ombudsman must each take such steps as it considers appropriate to co-operate in the exercise of their respective functions.
- (2) The regulator and a housing ombudsman must prepare and maintain a memorandum describing how they intend to comply with subsection (1).
- (3) The regulator and a housing ombudsman must ensure that the memorandum between them as currently in force is published in the way appearing to them to be best calculated to bring it to the attention of the public.”
- (3) In section 196 (consultation), in subsection (1), after paragraph (ea) insert—
- “(eb) any housing ombudsman.”.
- (4) In section 197 (direction by Secretary of State), in subsection (4), after paragraph (aa) insert—
- “(ab) any housing ombudsman.”.
- (5) In section 275 (general interpretation), after the entry relating to the HCA insert—
- ““housing ombudsman” means a housing ombudsman appointed in accordance with a scheme approved under Schedule 2 to the Housing Act 1996;”.
- (6) In consequence of the amendment made by subsection (5), the Housing and Regeneration Act 2008 is amended as follows—
- (a) in each of sections 96(d), 220(11) and 239(1), for “an ombudsman appointed by virtue of section 124” substitute “a housing ombudsman”;
- (b) in section 242(2), for “person appointed by virtue of section 124 as the ombudsman” substitute “housing ombudsman”.

- (7) In Schedule 2 to the Housing Act 1996 (social rented sector: housing complaints), in paragraph 3 (approval of scheme etc), in sub-paragraph (1), for the words from “shall be made” to the end substitute –

- “(a) may only be made after the applicant has consulted the Regulator of Social Housing,
- (b) shall be made in such manner as the Secretary of State may determine, and
- (c) shall be accompanied by such information as the Secretary of State may require.”

#### 4 Collection of information

- (1) The Housing and Regeneration Act 2008 is amended as follows.

- (2) In section 107 (collection) –

- (a) in subsection (1), omit from “and which relates to” to the end;
- (b) omit subsection (2);
- (c) before subsection (3), insert –

“(2A) A requirement under subsection (1) may also require the person to provide the regulator with an explanation of any document or information required under that subsection.”;

- (d) in subsection (3) –
  - (i) in the opening words, after “requirement” insert “under subsection (1)”;
  - (ii) in paragraph (a), for “document or information” substitute “document, information or an explanation”;
- (e) in subsection (4), for “documents or information” substitute “documents, information or explanations”;
- (f) after subsection (4) insert –

“(4A) The regulator may authorise a person in writing to exercise any of its powers under this section.

(4B) An authorisation –

- (a) must specify the extent to which the person is authorised to exercise the powers, and
- (b) may provide that the person is to be authorised for a particular period. ”;

- (g) in subsection (5), after “requirement” insert “under subsection (1)”;
- (h) in subsection (6), for “to which a requirement relates” substitute “required under subsection (1)”;
- (i) after subsection (6) insert –

“(6A) Knowingly or recklessly providing the regulator with a document, information or an explanation which is false or misleading in purported compliance with a requirement under subsection (1) is an offence.”;

- (j) in subsection (7), after “requirement” insert “under subsection (1)”.

- (3) In section 108 (section 107: supplemental) –
- (a) in subsection (1), after “requirement” insert “under section 107(1)”.
  - (b) in subsection (2) –
    - (i) in the opening words, after “requirement” insert “under section 107(1)”;
    - (ii) for paragraph (a) substitute –
 

“(a) a registered provider;”;
    - (iii) in paragraph (b), for “the registered provider, or” substitute “a registered provider;”;
    - (iv) in paragraph (c), for “the registered provider.” substitute “a registered provider, or”;
    - (v) after paragraph (c) insert –
 

“(d) a person who is certified in writing by the regulator as being –

      - (i) a person who has applied to be registered, or
      - (ii) a local authority in England which the regulator thinks may be, or may become, a provider of social housing.”;
  - (c) in subsection (4), after “107(6)” insert “or (6A)”;
  - (d) in subsection (5), for “or (6)” substitute “, (6) or (6A)”.
- (4) In section 203(3) (inspector’s powers), for “107(3) to (7)” substitute “107(2A) to (4) and (5) to (7),”.
- (5) In section 208(4) (inquirer’s powers), for “107(3) to (7)” substitute “107(2A) to (4) and (5) to (7),”.

## 5 Registration criteria

In section 112 of the Housing and Regeneration Act 2008 (eligibility for voluntary registration), in subsection (3) –

- (a) in the opening words omit “as to”;
- (b) in paragraph (a), at the beginning insert “as to”;
- (c) in paragraph (b) –
  - (i) at the beginning insert “as to”;
  - (ii) omit “and”;
- (d) in paragraph (c) –
  - (i) at the beginning insert “as to”;
  - (ii) at the end insert “, and

(d) to secure that the body would meet, on registration, standards set by the regulator under sections 193, 194 and 194A.”

## 6 Appointment of health and safety lead by registered provider

- (1) The Housing and Regeneration Act 2008 is amended as follows.

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- (2) Before section 127 (and the heading immediately before it) insert—

*“Health and safety lead for registered provider*

### **126A Designation of health and safety lead**

- (1) A registered provider must designate an individual to carry out the functions in section 126B.
- (2) The individual designated under subsection (1) is referred to in this Part as the “health and safety lead” for the registered provider.
- (3) The health and safety lead must be—
  - (a) in the case of a private registered provider—
    - (i) if the provider has at least 15 employees, an employee of the provider;
    - (ii) otherwise, an employee or officer of the provider;
  - (b) in the case of a local authority which operates executive arrangements and has a leader and cabinet executive (England)—
    - (i) the executive leader,
    - (ii) another member of the executive, or
    - (iii) an employee of the authority;
  - (c) in the case of a local authority which operates executive arrangements and has a mayor and cabinet executive—
    - (i) a member of the executive other than the elected mayor, or
    - (ii) an employee of the authority;
  - (d) in the case of any other local authority—
    - (i) the chairman or vice-chairman of the authority (if holding a paid office), or
    - (ii) an employee of the authority.
- (4) But where the registered provider is the Common Council of the City of London, the health and safety lead must be an employee of the Common Council.
- (5) In this section and section 126B, the following terms have the same meanings as in Part 1A of the Local Government Act 2000 (and see the provisions of that Act mentioned)—
  - “elected mayor” (section 9H(1));
  - “executive” (section 9C);
  - “executive arrangements” (section 9B(4));
  - “executive leader” (section 9C(3)(a));
  - “leader and cabinet executive (England)” (section 9C(3));
  - “mayor and cabinet executive” (section 9C(2)).
- (6) For the purposes of subsection (3)(d)(i)—
  - (a) the references to the chairman and vice-chairman of an authority are to those persons elected under section 3 or 5 of

- the Local Government Act 1972 (or in relation to a London borough council are to be read in accordance with section 270(4) of that Act);
- (b) a chairman or vice-chairman holds a “paid office” if the council pays the person an allowance.
- (7) The Secretary of State may by regulations amend this section to alter who may be the health and safety lead for a registered provider.

### **126B Functions of the health and safety lead**

- (1) The functions of the health and safety lead for a registered provider are to—
- (a) monitor the provider’s compliance with health and safety requirements;
  - (b) assess risks of failure to comply with health and safety requirements;
  - (c) notify the responsible body of the provider of—
    - (i) risks assessed under paragraph (b) of material failures by the provider to comply with health and safety requirements;
    - (ii) material failures by the provider to comply with health and safety requirements;
  - (d) provide advice to the responsible body as to how the provider should address risks and failures notified to the responsible body under paragraph (c) for the purpose of ensuring that the provider complies with health and safety requirements.
- (2) In this Part, “health and safety requirement”, in relation to a registered provider, means a statutory requirement, so far as it—
- (a) relates to the health or safety of tenants of social housing, and
  - (b) applies to the provider by virtue of being the provider of that social housing (including where it is expressed as applying to a landlord or employer or in some other way).
- (3) In this section, “statutory requirement” means a requirement imposed by or by virtue of legislation and includes—
- (a) an obligation under a covenant implied by or under legislation (such as a covenant under section 9A of the Landlord and Tenant Act 1985 (fitness for human habitation of dwellings in England));
  - (b) a requirement imposed—
    - (i) by a notice given under legislation, or
    - (ii) by or as a result of other action (such as enforcement action mentioned in section 5(2) or 7(2) of the Housing Act 2004 (housing conditions: category 1 and 2 hazards)) taken under legislation.

For this purpose “legislation” means a provision of or made under an Act.

- (4) For the purposes of this section, the “responsible body” of a registered provider is—
- (a) in the case of a local authority which operates executive arrangements, the executive;
  - (b) in the case of any other local authority, the councillors;
  - (c) in the case of a private registered provider, has the meaning given by the following table—

<i>Private registered provider</i>	<i>Meaning of “responsible body”</i>
Registered charity which is not a registered company	Its charity trustees within the meaning given by section 177 of the Charities Act 2011
Registered society	Its committee within the meaning given by section 149 of the Co-operative and Community Benefit Societies Act 2014
Registered company	Its directors within the meaning given by section 250 of the Companies Act 2006
Limited liability partnership	Its members.

(See section 126A(5) for the meanings of terms used in paragraph (a).)

- (5) But where the registered provider is the Common Council of the City of London, the “responsible body” for the purposes of this section is the councillors.
- (6) The Secretary of State may by regulations amend this section to alter (or specify) who is the “responsible body” of a registered provider .

### **126C Duties of registered provider in relation to health and safety lead**

- (1) A registered provider must—
  - (a) ensure that the health and safety lead—
    - (i) has sufficient authority (including, in particular, authority to obtain information) within the provider’s organisation, and
    - (ii) can devote sufficient time to the functions of the health and safety lead,
 to perform the role of health and safety lead effectively;
  - (b) provide the health and safety lead with the resources needed to carry out those functions.

- (2) A registered provider must, in accordance with requirements published by the regulator –
  - (a) notify the regulator of the name and contact details of the health and safety lead, and
  - (b) publish that information.

#### **126D Health and safety lead: general**

- (1) Nothing in sections 126A to 126C affects –
    - (a) the responsibility of a registered provider for compliance with health and safety requirements, or
    - (b) the liability of the registered provider or of any director, member or other officer or person for a failure to comply with health and safety requirements.
  - (2) The health and safety lead is not, by virtue of those sections –
    - (a) responsible for the registered provider’s compliance with health and safety requirements, or
    - (b) liable for a failure by the registered provider to comply with health and safety requirements,

(but this does not affect any responsibility or liability which the individual designated under section 126A has otherwise than as health and safety lead).
  - (3) A registered provider may nominate an individual to carry out the functions of the health and safety lead if the health and safety lead is unable to act due to absence or illness.”
- (3) In section 220 (grounds for giving enforcement notice), before subsection (11C) (to be inserted by section 12) insert –
- “(11B) Case 12 is where –
- (a) the registered provider –
    - (i) does not have a health and safety lead designated under section 126A, or
    - (ii) has failed to meet a requirement under section 126C, or
  - (b) the functions of the health and safety lead are not being carried out.”
- (4) In section 227 (grounds for imposition of penalty), before subsection (7C) (to be inserted by section 12) insert –
- “(7B) Case 8 is where –
- (a) the registered provider –
    - (i) does not have a health and safety lead designated under section 126A, or
    - (ii) has failed to meet a requirement under section 126C, or

- (b) the functions of the health and safety lead are not being carried out.”
- (5) In section 247(1) (management tender), before paragraph (b) insert—
- “(ab) a registered provider—
- (i) does not have a health and safety lead designated under section 126A, or
- (ii) has failed to meet a requirement under section 126C(1),
- (ac) the functions of the health and safety lead are not being carried out.”.
- (6) In section 251(1) (appointment of manager of private registered provider), before paragraph (b) insert—
- “(ab) a private registered provider—
- (i) does not have a health and safety lead designated under section 126A, or
- (ii) has failed to meet a requirement under section 126C(1),
- (ac) the functions of the health and safety lead are not being carried out.”.
- (7) In section 252A(2) (appointment of advisers to local authorities)—
- (a) in paragraph (a), omit the final “or” ;
- (b) after paragraph (b) insert—
- “(c) that the authority—
- (i) does not have a health and safety lead designated under section 126A, or
- (ii) has failed to meet a requirement under section 126C(1),
- (d) that the functions of the health and safety lead are not being carried out”.
- (8) In section 276 (index of defined terms), after the entry for “The HCA” insert—
- |                               |                   |
|-------------------------------|-------------------|
| “health and safety lead       | section 126A(2)   |
| health and safety requirement | section 126B(2)”. |
- (9) In section 320 (orders and regulations), in subsection (3)(d), for “or 72” substitute “, 72, 126A or 126B”.

## 7 Standards relating to consumer matters

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In section 193 of the Housing and Regeneration Act 2008 (standards relating to consumer matters), in subsection (1), after “extent” insert “, safety”.

## 8 Standards relating to information and transparency

jAcrlALT

- (1) The Housing and Regeneration Act 2008 is amended as follows.

- (2) After section 194 insert –

**“194A Standards relating to information and transparency**

- (1) The regulator may set standards for registered providers in matters relating to the provision of information to their tenants of social housing and to the regulator.
  - (2) Standards under subsection (1) may, in particular, require registered providers to comply with specified rules about –
    - (a) the provision of information to their tenants of social housing concerning the accommodation, facilities or services provided in connection with social housing,
    - (b) monitoring their compliance with standards under this section and sections 193 and 194 and informing the regulator if they have failed, or there is a risk they will fail, to meet any of those standards, and
    - (c) the publication of information about –
      - (i) the remuneration of their executives, and
      - (ii) their income, management costs and other expenditure.
  - (3) For the purposes of subsection (2)(c), an “executive”, in relation to a registered provider, means an individual who is both –
    - (a) an officer or employee of the registered provider, and
    - (b) responsible for the management of the provider.
  - (4) In setting standards the regulator must have regard to the desirability of registered providers being free to choose how to provide services and conduct business.”
- (3) In section 198A (failure to meet a standard) –
- (a) in the heading, after “193” insert “or 194A”;
  - (b) in subsection (1), after “matters)” insert “or section 194A (standards relating to information and transparency)”;
  - (c) in subsection (4), after “193” insert “or 194A”.
- (4) In section 220 (grounds for giving enforcement notice), in subsection (2), for “193 or 194” substitute “193, 194 or 194A”.
- (5) In section 227 (grounds for imposition of penalty), in subsection (2), for “193 or 194” substitute “193, 194 or 194A”.
- (6) In section 237 (grounds for award of compensation), in subsection (2), for “193 or 194” substitute “193, 194 or 194A”.
- (7) In section 247 (management tender), in subsection (1)(a), for “193 or 194” substitute “193, 194 or 194A”.
- (8) In section 251 (appointment of manager), in subsection (1)(a), for “193 or 194” substitute “193, 194 or 194A”.

**9 Code of practice: standards relating to consumer matters**

jAcr14

In section 195 of the Housing and Regeneration Act 2008 (code of practice)—

- (a) in subsection (1)(a), omit “under section 194”;
- (b) in subsection (2), omit “under that section”.

**10 Direction by Secretary of State**

jAcr15

(1) Section 197 of the Housing and Regeneration Act 2008 is amended as follows.

(2) In subsection (2)(a), after “quality” insert “or safety”.

(3) After subsection (2) insert—

“(2A) The Secretary of State may direct the regulator—

- (a) to set a standard under section 194A which relates, in the Secretary of State’s opinion, to the matters in section 194A(2)(a),
- (b) about the content of standards described in paragraph (a), or
- (c) to have regard to specified objectives when setting those standards.”

**11 Intervention powers: removal of “serious detriment” test**

jBcr17

(1) The Housing and Regeneration Act 2008 is amended as follows.

(2) In section 198A (failure to meet standard under section 193), omit subsections (2), (3), (5) and (6).

(3) As a consequence—

- (a) in section 215 (guidance about use of intervention powers), omit subsection (2A);
- (b) in section 218 (exercise of enforcement powers)—
  - (i) in subsection (1), for “Subsection (2)” substitute “This section”;
  - (ii) in subsection (2), after paragraph (d) insert—
    - “(e) whether the failure or other problem is serious or trivial.”;
- (c) omit subsections (3) and (4).

**12 Performance monitoring**

jAcr13

(1) The Housing and Regeneration Act 2008 is amended as follows.

(2) After section 198B insert—

*“Performance information*

**198C Directions about performance information**

- (1) The regulator may give directions to registered providers requiring them to collect, process and publish information about the provider’s

performance in relation to matters covered by standards under sections 193, 194 and 194A.

- (2) Directions under subsection (1) may, in particular, specify or describe—
  - (a) the information that must be collected,
  - (b) the period the information must cover,
  - (c) the method of collecting, processing and presenting information,
  - (d) the form in which information must be presented, and
  - (e) what information must be published and when and the manner of publication.
- (3) A direction—
  - (a) may make provision that applies generally or only to specified cases, circumstances or registered providers, and
  - (b) may make different provision for different cases, circumstances or registered providers.
- (4) The regulator must make arrangements for bringing a direction to the attention of every registered provider to which it applies.
- (5) The regulator may require a registered provider to send to the regulator—
  - (a) any information collected by the registered provider pursuant to directions under subsection (1);
  - (b) an analysis of that information;
  - (c) an explanation of how the information was collected, processed or published.”
- (3) In section 220 (grounds for giving enforcement notice), after subsection (11B) (to be inserted by section 6) insert—
 

“(11C) Case 13 is where the registered provider has failed to comply with directions or a request under section 198C.”
- (4) In section 227 (grounds for imposition of penalty), after subsection (7B) (to be inserted by section 6) insert—
 

“(7C) Case 9 is where the registered provider has failed to comply with directions or a request under section 198C.”

### 13 Surveys

- (1) The Housing and Regeneration Act 2008 is amended as follows.
- (2) In section 199 (survey)—
  - (a) omit subsections (4) to (6);
  - (b) after subsection (8) insert—
    - “(9) Arrangements for a person other than a member of the regulator’s staff to carry out a survey may include provision about payments.”

(3) After section 199 insert –

**“199A Survey: power to enter without warrant**

- (1) An authorised person may enter premises at any reasonable time to carry out a survey under section 199.
- (2) The power in subsection (1) may only be exercised if –
  - (a) an authorised person has given the registered provider at least 48 hours’ notice of the exercise of the power, and
  - (b) if the premises are occupied, an authorised person has given the occupier (or any one of the occupiers) of the premises at least 24 hours’ notice of the exercise of the power.
- (3) The requirement to give notice may be waived –
  - (a) in the case of notice required by subsection (2)(a), by the registered provider, and
  - (b) in the case of notice required by subsection (2)(b), by the occupier (or any one of the occupiers) of the premises.
- (4) Notice under subsection (2)(a) or (b) may state that, if entry to the premises were to be refused, an authorised person would propose to apply for a warrant under section 199B.
- (5) Notice under subsection (2)(b) may be given by fixing it to some conspicuous part of the premises.

**199B Survey: power to enter with warrant**

- (1) This section applies where a justice of the peace is satisfied, on sworn information in writing, that entry to premises specified in the information is reasonably required by an authorised person to carry out a survey under section 199.
- (2) The justice may issue a warrant authorising an authorised person to enter the premises to carry out the survey where the justice is satisfied that –
  - (a) entry to the premises has been sought under section 199A but has been refused,
  - (b) the premises are unoccupied or that the occupier is temporarily absent, or
  - (c) there are reasonable grounds to believe that an authorised person will not be able to obtain entry to the premises without a warrant.
- (3) A warrant under this section authorises an authorised person to enter the premises at any reasonable time, using reasonable force if necessary.
- (4) A warrant under this section continues in force until the purpose for which the entry is required is satisfied.

- (5) An authorised person entering premises under a warrant under this section may take such other persons, equipment or materials as the authorised person thinks necessary to carry out the survey.
  - (6) If the premises are unoccupied or the occupier is temporarily absent, the authorised person who has entered the premises under a warrant under this section must leave the premises as effectively secured against trespassers as the authorised person found them.
  - (7) An authorised person who has entered, or who is seeking to enter, premises under a warrant under this section must produce a copy of the warrant on request by an occupier of the premises or by the registered provider.”
- (4) In section 200 (survey: supplemental)–
- (a) omit subsection (3);
  - (b) in subsection (4), after “199” insert “or 199A”;
  - (c) after subsection (4) insert–
    - “(4A) A person who obstructs an authorised person in exercising a power conferred by a warrant under section 199B commits an offence.”

#### **14 Regulator’s duty to publish guidance**

jAcr16

In section 215 of the Housing and Regeneration Act 2008 (guidance about use of intervention powers) omit–

- (a) subsection (1)(a) (including the final “and”);
- (b) subsection (2).

#### **15 Performance improvement plans**

jBcr112

- (1) The Housing and Regeneration Act 2008 is amended as follows.
- (2) After section 218 insert–

*“Performance improvement plans*

##### **218A Performance improvement plan notice**

- (1) The regulator may give a registered provider a notice (a “performance improvement plan notice”) if the regulator is satisfied that–
  - (a) the registered provider has failed to meet a standard under section 193, 194 or 194A,
  - (b) 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,
  - (c) the registered provider has failed to comply with directions or a request under section 198C,
  - (d) the interests of the tenants of social housing of the registered provider require protection, or

- (e) the registered provider has given an undertaking under section 125 and failed to comply with it.
- (2) A performance improvement plan notice must—
- (a) specify on which of the grounds mentioned in subsection (1) it is given,
  - (b) identify the issues which led the regulator to be satisfied of those grounds,
  - (c) require the registered provider to prepare and submit to the regulator a plan (a “performance improvement plan”) setting out the action the provider will take to address the issues identified,
  - (d) specify the date by which the performance improvement plan must be submitted to the regulator,
  - (e) require the registered provider to publish a performance improvement plan if it is approved by the regulator and specify the manner of such publication, and
  - (f) explain the effect of subsections (3) and (4) and sections 218B to 218D.
- (3) The regulator may withdraw a performance improvement plan notice by notice to the registered provider.
- (4) If a registered provider fails to comply with a performance improvement plan notice the regulator must consider exercising another power under this Chapter or Chapter 6.

### **218B Performance improvement plans**

- (1) The regulator must—
- (a) approve a performance improvement plan submitted in accordance with section 218A(2)(c) and (d), or
  - (b) reject it, giving reasons for doing so.
- (2) A registered provider must implement in full a performance improvement plan that has been approved by the regulator.
- (3) If a performance improvement plan is rejected, the registered provider will be taken to have failed to comply with the performance improvement plan notice.
- (4) If a tenant of social housing of a registered provider makes a written request to the provider for a copy of the provider’s performance improvement plan which has been approved by the regulator, the registered provider must provide the tenant with a copy as soon as reasonably practicable.

### **218C Cancellation of performance improvement plan**

- (1) The regulator may, by notice to a registered provider, cancel a performance improvement plan which it has approved.

- (2) If a performance improvement plan is cancelled in accordance with subsection (1) the duties mentioned in subsection (3) no longer apply (and are treated as never having applied).

But this does not affect any action taken (or being taken) by the regulator in relation to a breach of such a duty before the plan is cancelled.

- (3) The duties are—
- (a) the duty to publish a performance improvement plan which has been approved (see section 218A(2)(e));
  - (b) the duty in section 218B(2) (duty to implement a plan);
  - (c) the duty in section 218B(4) (duty to provide copy of plan).

### **218D Appeals**

- (1) A registered provider may appeal to the High Court against a decision of the regulator to give the provider a performance improvement plan notice.
- (2) An appeal under this section must be brought within the period of 28 days beginning with the day on which the registered provider receives the notice.
- (3) Where an appeal under this section is made the requirement to prepare and submit a performance improvement plan is suspended pending the final determination or withdrawal of the appeal.
- (4) But where a performance improvement plan has been approved under section 218B an appeal under this section does not suspend—
- (a) the duty to publish a performance improvement plan which has been approved (see section 218A(2)(e));
  - (b) the duty in section 218B(2) (duty to implement a plan);
  - (c) the duty in section 218B(4) (duty to provide copy of plan)."

(3) In section 220 (grounds for giving enforcement notice), before subsection (12) (but after the subsection (11C) to be inserted by section 12) insert—

“(11D) Case 14 is where the registered provider has failed to comply with a performance improvement plan notice.

(11E) Case 15 is where the registered provider has a performance improvement plan which has been approved by the regulator and has failed to implement it in full.”

(4) In section 227 (grounds for imposition of a penalty), before subsection (8) (but after the subsection (7C) to be inserted by section 12) insert—

“(7D) Case 10 is where the registered provider has failed to comply with a performance improvement plan notice.

(7E) Case 11 is where the registered provider has failed to comply with the duty in section 218B(4).”

- (5) In section 237 (grounds for award of compensation) at the end insert –
- “(5) Case 4 is where the registered provider has failed to comply with a performance improvement plan notice.
- (6) Case 5 is where the registered provider has failed to comply with a the duty in section 218B(4).”
- (6) In section 247 (management tender), in subsection (1), after paragraph (b) insert “, or
- (c) a registered provider has failed to comply with a performance improvement plan notice.”
- (7) In section 251 (appointment of manager), in subsection (1), after paragraph (b) insert “, or
- (c) a registered provider has failed to comply with a performance improvement plan notice.”
- (8) In section 252A (appointment of advisers to local authority), in subsection (2), at the end of paragraph (d) (to be inserted by section 6) insert “, or
- (e) a registered provider has failed to comply with a performance improvement plan notice.”
- (9) As a consequence of the amendment made by subsection (2), in section 276 (index of defined terms) after the entry relating to “penalty notice” insert –

“Performance improvement plan	Section 218A
Performance improvement plan notice	Section 218A”.

## 16 Extension of powers to charities who have not received public assistance

- (1) The Housing and Regeneration Act 2008 is amended as follows.
- (2) Omit –
- (a) section 209(1) (inquiries);
- (b) section 256(7) (orders restricting dealings during inquiry);
- (c) section 257(5) (orders restricting dealings following inquiry);
- (d) section 259(5) (orders suspending officers etc during inquiry);
- (e) section 260(4) (orders removing or suspending officers etc following inquiry);
- (f) section 267(2) (orders removing officers);
- (g) section 269(6)(a), including the final “and” (orders appointing new officers).
- (3) As a consequence of the amendments made by subsection (2) –
- (a) omit section 274 (definition of charities that have received public assistance);
- (b) in section 276 (index of defined terms) omit the entry relating to “received public assistance (charities)”.

**17 Notification of Charity Commission of exercise of enforcement powers**

jBcr110

- (1) The Housing and Regeneration Act 2008 is amended as follows.
- (2) In section 256 (restrictions on dealings during inquiry), after subsection (6) insert—

“(6A) If the registered provider is a registered charity, the regulator must notify the Charity Commission if it makes an order under this section.”
- (3) In section 257 (restrictions on dealings following inquiry), after subsection (4) insert—

“(4A) If the registered provider is a registered charity, the regulator must notify the Charity Commission if it makes an order under this section.”
- (4) In section 267 (supplemental provision about removal of officers), after subsection (1) insert—

“(1A) The regulator must notify the Charity Commission if it makes an order removing an officer of a registered charity.”
- (5) In section 269 (appointment of new officers), in subsection (6)(b), for “consulted the Charity Commission” substitute “notified the Charity Commission of its intention to do so”.

**18 Removal of ground of failure to comply with section 23 of the Welfare Reform and Work Act 2016**

jBcr111

- (1) The Housing and Regeneration Act 2008 is amended as follows.
- (2) Omit—
  - (a) section 220(11A) (grounds for giving enforcement notice);
  - (b) section 227(7A) (grounds for imposition of a penalty);
  - (c) section 237(4) (grounds for award of compensation);
  - (d) section 247(1)(aa), including the final “or” (grounds for requiring management tender);
  - (e) section 251(1)(aa), including the final “or” (grounds for appointing manager).
- (3) As a consequence of the amendments made by subsection (2)—
  - (a) in section 247, in subsection (1)(a), at the end insert “or”;
  - (b) in section 251, in subsection (1)(a), at the end insert “or”.

**19 Electrical safety standards**

jJi1

- (1) Section 122 of the Housing and Planning Act 2016 (electrical safety standards for properties let by private landlords) is amended as follows.
- (2) In the heading, for “properties let by private landlords” substitute “residential properties let by landlords”.
- (3) In subsection (1)—
  - (a) omit “private”;

- (b) after “England” insert “to whom this section applies”.
- (4) After subsection (1) insert –
  - “(1A) This section applies to a landlord who is –
    - (a) a private landlord, or
    - (b) a registered provider of social housing.”

JBCRL8SCH

## SCHEDULE

Section

## REGULATORY AND ENFORCEMENT POWERS

- 1 This Schedule amends the Housing and Regeneration Act 2008.
- 2 In section 192 (overview), in paragraph (b), for “210” substitute “210A”.
- 3 In section 201 (inspections) omit subsections (2) and (2A).
- 4 In section 206 (inquiry) –
- (a) in subsection (4)(a), for “, employees or consultants” substitute “or employees”;
  - (b) omit subsection (5).
- 5 In section 226 (overview of provisions on penalties) omit “private”.
- 6 In section 227 (grounds for imposition of penalty), in subsection (1), omit “private”.
- 7 In section 229 (amount of penalty) –
- (a) in subsection (2), after “penalty” insert “that may be”;
  - (b) in that subsection, for “may not exceed £5,000” substitute “is unlimited”;
  - (c) omit subsection (3).
- 8 In section 251 (appointment of manager of a private registered provider), in subsection (2), in both places, omit “an individual as”.
- 9 In section 252 (supplementary provisions about appointment of manager) –
- (a) for subsection (2) substitute –
    - “(2) The registered provider may make representations to the regulator about the notice within the period of 5 days beginning with the day on which the provider receives the notice.”;
  - (b) after subsection (2) insert –
    - “(2A) Unless the registered provider consents, the regulator may not take action under section 251(2) before the expiry of the period within which the provider may make representations.”;
  - (c) omit subsection (3).
- 10 In section 256 (restrictions on dealings during inquiry), in subsection (1)(a), for “non-profit” substitute “private”.
- 11 In section 257 (restrictions on dealings following inquiry), in subsection (1), for “non-profit” substitute “private”.
- 12 In section 259 (suspension of officer etc during inquiry) –
- (a) in subsection (1)(a), for “non-profit” substitute “private”;
  - (b) in subsection (1)(b), for “either” substitute “any”;

- (c) after subsection (3) insert –
  - “(3A) Case 3 applies if the regulator is satisfied that an officer, employee or agent of the registered provider is obstructing, or failing to co-operate with, the inquiry.”;
- (d) for subsection (4) substitute –
  - “(4) The regulator may by order –
    - (a) where Case 1 or Case 2 applies, suspend any officer, employee or agent of the registered provider who it thinks has contributed to the failure or mismanagement, or
    - (b) where Case 3 applies, suspend the officer, employee or agent who is obstructing, or failing to co-operate with, the inquiry.”
- 13 In section 260 (removal or suspension of officer etc following inquiry) –
  - (a) in subsection (1), for “non-profit” substitute “private”;
  - (b) in subsection (2), for the words from “who” to the end substitute “who –
    - (a) it thinks has contributed to the failure or mismanagement, or
    - (b) it thinks obstructed, or failed to co-operate with, the inquiry under section 206. ”
- 14 In section 266 (removal of officers) –
  - (a) in subsection (1), for “non-profit” substitute “private”;
  - (b) after subsection (8) insert –
    - “(9) Case 8 applies to a person who is obstructing the regulator, or failing to co-operate with the regulator, in the performance of the regulator’s functions under this Part.”
- 15 In section 269 (appointment of new officers), in subsection (1), for “non-profit” substitute “private”.