

These notes relate to the Lords Amendments to the Housing and Regeneration Bill, as brought from the House of Lords on 17th July 2008 [Bill 142]

HOUSING AND REGENERATION BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

INTRODUCTION

1. These explanatory notes relate to the Lords Amendments to the Housing and Regeneration Bill, as brought from the House of Lords on 17th July 2008. They have been prepared by the Department of Communities and Local Government in order to assist the reader of the Bill and the Lords Amendments and to help inform debate on the Lords Amendments. They do not form part of the Bill and have not been endorsed by Parliament.
2. These notes, like the Lords Amendments themselves, refer to HL Bill 47, the Bill as first printed for the Lords.
3. These notes need to be read in conjunction with the Lords Amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the effect of the Lords Amendments.
4. All the Lords Amendments were in the name of the Minister.

COMMENTARY ON LORDS AMENDMENTS

Lords Amendment 1

5. This amendment would add “and good design” to clause 2, the objects of the Homes and Communities Agency (HCA). The effect is that the fourth object of the HCA would be to contribute to the achievement of sustainable development and good design in England.

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Lords Amendment 2

6. This amendment would clarify that the term “good design” includes design which has due regard to the needs of elderly and disabled persons.

Lords Amendment 3

7. This amendment would make reference to clauses 22 and the new clause after clause 46 of Part 1 of the Bill, which also make provision as to the objects of the HCA.

Lords Amendment 4

8. This amendment would ensure that references to “common” land in this Bill have the same meaning as given by section 19(4) of the Acquisition of Land Act 1981.

Lords Amendments 5, 9, 15, 22, 23 and 24

9. These amendments remove the Secretary of State’s power to make designation orders in relation to the traffic regulation of private streets.

Lords Amendments 6 and 7

10. These amendments, with amendments 16 and 17 to clause 14, would clarify that the Secretary of State, when providing for the HCA to be the local planning authority for the whole or any part of a designated area, must specify the particular permitted purposes and particular kinds of development in respect of which the HCA is to have that role.

Lords Amendment 8

11. This amendment would clarify that when determining whether it is appropriate for the HCA to become a local planning authority for the whole (or part) of a designated area, the Secretary of State must be satisfied that designation would result in local planning authority functions being discharged in the area more effectively.

Lords Amendments 10, 11 and 12

12. These amendments would set out additional steps for the Secretary of State to take before making a designation order. It would in particular add to the list of persons the Secretary of State must consult when considering designating an area.

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Lords Amendments 13 and 14

13. These amendments would remove reference to the Planning Act 2008 (the Bill for which is still proceeding through Parliament) and thereby remove the ability of the Secretary of State to confer purposes contained in that Act on the HCA when the Secretary of State designates an area and confers functions on the HCA.

Lords Amendments 16, 17 and 18

14. Amendments 16 and 17, with amendments 6 and 7 to clause 13, would clarify that the Secretary of State, when providing for the HCA to be the local planning authority for the whole or any part of a designated area, must specify the particular permitted purposes and particular kinds of development in respect of which the HCA is to have that role. Amendment 18 would have the same effect in relation to relevant functions.

Lords Amendments 19 and 20

15. These amendments would remove the Secretary of State's express power to disapply any enactment where functions are conferred upon the HCA and would remove the Secretary of State's power to amend by secondary legislation the definitions of relevant functions and planning related provisions.

Lords Amendment 21

16. This amendment would require the HCA, prior to exercising any function conferred upon it by a designation order, to prepare and publish a statement of local involvement. The statement would set out the HCA's policy on how it intends to involve affected local authorities, and other particular persons, in the exercise of functions conferred upon it by a designation order. This amendment would also provide that where the HCA establishes a committee or sub-committee for the purposes of exercising those functions every local authority within the designated area can suggest one or more candidates for membership to that committee or sub-committee.

Lords Amendment 25

17. This amendment would provide that where the Secretary of State designates an area and confers local planning authority functions on the HCA the HCA has to be consulted by the relevant regional planning body for that designated area. New paragraph (4B) would also make clear the definition of a local planning authority for such purposes.

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Lords Amendment 26

18. This amendment, by removing clause 21, would remove the ability of the HCA to serve a connection notice on the local highways authority to connect private streets to existing highways.

Lords Amendment 27

19. This amendment would make it possible for the HCA to continue to exercise financial assistance functions that are transferred to it or which supersede Housing Corporation functions.

Lords Amendment 28

20. This amendment slightly changes the wording of this clause to ensure that provisions about terms and conditions relating to financial assistance in Part 1 of the Bill are consistent.

Lords Amendments 29, 30, 31, 48, 49, 54, 55 and 56

21. These amendments would make changes to a number of clauses to clarify the scope of activities that subsidiaries of the HCA may undertake and the operation of the clauses to subsidiaries.

Lords Amendment 32

22. This amendment replaces the existing clause with a general power for the HCA to provide such services for communities as it considers appropriate or facilitate the provision of such services.

Lords Amendments 33 to 36

23. Amendments 33 to 36 would require the HCA, when giving financial assistance for the provision of low cost home ownership accommodation, to consult the regulator of social housing about the proposals.

Lords Amendment 37

24. Amendment 37 would clarify that the HCA's power under clause 35 is limited to requiring the application or appropriation of a specified sum to a purpose of the registered provider itself, and not to a purpose of another body.

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Lords Amendment 38

25. Amendment 38 would correct an error which would have meant that the definition of “recoverable amount” did not take into account any partial repayment (or reapplication) made before a change of ownership.

Lords Amendments 39, 40 and 42 to 46

26. Amendments 39, 40, and 42 to 46 would clarify that the HCA was able to enter into agreements with providers of social housing which included arrangements for sharing equity uplift between the HCA and the provider. Amendment 46 would provide that any determination on the principles of such an equity sharing agreement would have to be made at or before the award of grant funding.

Lords Amendment 41

27. Amendment 41 would require the HCA to notify the regulator of social housing 14 days before exercising any power under clause 35(2), (3) or (4) to reduce, suspend or cancel grant, or require repayment or reapplication of specified sums, in relation to a registered provider of social housing. The arrangement would also require the HCA to determine in advance of (or at the time of) providing grants the events in which (and the principles according to which) it will exercise its powers to recover the grants.

Lords Amendment 47

28. This amendment would make it clear that the power of the HCA to vary or revoke a determination cannot override the provision that the events and principles according to which it exercises its powers to recover grants must be predetermined.

Lords Amendment 50 and 225

29. These amendments ensure the powers of the HCA to delegate are clear.

Lords Amendment 51

30. This amendment would require the HCA to consult with such representatives of local government as it considers appropriate about how it pursues its objects and to publish a statement about how it proposes to do that (having consulted with such persons as it considers appropriate).

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Lords Amendment 52

31. This amendment would enable the Secretary of State to make a scheme to transfer designated property, rights or liabilities from a regional development agency to the HCA.

Lords Amendment 53 and 311

32. Amendment 53 would amend the legislation establishing the Urban Regeneration Agency, which is abolished by clause 51, so that it may have a smaller minimum number of members. This is to facilitate the transition of activities from the Urban Regeneration Agency to the HCA. Amendment 311 would make a consequential amendment to the repeals Schedule.

Lords Amendments 57 and 58

33. These amendments would remove the definitions of highways and private streets from the Bill as they would no longer be needed as a result of amendments 5, 9, 15, 22, 23 and 24.

Lords Amendment 59

34. This amendment clarifies that references in this Part of the Bill (for example in clause 4) to powers of the HCA do not include references to powers contained in duties imposed on the HCA.

Lords Amendments 60 to 64

35. These amendments would update the index of defined expressions to reflect other amendments made in the Bill.

Lords Amendment 65

36. Amendment 65 would permit the Secretary of State by order to transfer functions of the Housing Corporation to the regulator, the HCA, or both jointly or concurrently. This order may make provision in relation to English but not Welsh registered social landlords which is similar to any provision made by Part 2 of the Bill. This power would allow the regulator to maintain the current system through transitional arrangements for the period after it is established but before the new regulatory system is fully in force; for example, before it had consulted on standards.

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Lords Amendments 66 and 67

37. These amendments would define Community Land Trusts for the purpose of including them in clause 79 as English bodies. The definition specifies some key attributes of Community Land Trusts which are English bodies.

Lords Amendments 68, 100, 168, 245, 263, 268, 276, 282, 294, 295 and 299

38. Amendments 68 and 100 would omit clauses 87 and 184. The amendments made by those clauses would be replaced by amendments in the new Schedule of amendments relating to Part 2 of the Bill (see amendments 168, 245, 276, 282 and 295). Amendments 263, 268, 294 and 299 amend the repeals Schedule to take account of the repeals made by the new Schedule.

Lords Amendments 69, 70, 103 and 124 to 127

39. These amendments are about complaints and guidance.

40. Amendments 69 and 70 amend clause 94 so as to require the regulator's annual report to include a general description of complaints made to it during the year about the performance of registered providers and of how those complaints have been dealt with.

41. Amendments 103 and 124 to 127 amend clauses 190, 212 and 213. These amendments would require that the regulator publishes guidance about complaints to the regulator on the performance of registered providers. The guidance would in particular specify the procedure to be followed in making a complaint, the criteria used by the regulator in deciding whether to investigate a complaint, and periods within which the regulator would aim to inform complainants of the result of complaints. The amendments would also require guidance on use of powers under chapters 6 and 7 to be published and are not solely for the attention of registered providers.

Lords Amendment 71

42. Amendment 71 would insert a new clause after clause 99 which would require that the regulator promote awareness of its functions among tenants of social housing, where appropriate consult tenants about the exercise of its functions, and where appropriate involve them in the exercise of its functions. It would also require the regulator to publish from time to time a statement about how it will meet this duty, following consultation.

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Lords Amendments 72 and 73

43. Amendments 72 and 73 would qualify clause 110 on disclosure so that a public authority may disclose information to the regulator only if it believes the disclosure is necessary for a purpose connected with the regulator's functions. Similarly it would mean that the regulator may disclose information to a public authority only if it believes that the disclosure is necessary for a purpose connected with the regulator's functions or for a purpose connected with the other authority's functions.

Lords Amendment 74

44. Amendment 74 would omit the definition of local authority from clause 114. The definition in clause 114 is unnecessary in the light of amendment 165 which inserts a definition of local authority applying throughout Part 2.

Lords Amendments 75 and 203

45. Amendment 75 would insert a new clause which allows the Secretary of State to make an order, under the affirmative resolution procedure, to amend or modify as necessary or desirable Part 2 of the Bill or other legislation so as to enable the regulator to regulate local authorities. It would also allow such an order to require the regulator to register a specific local authority or specified class of local authority. The clause requires that before making an order the Secretary of State must consult an authority or person likely to be affected by it and such other persons as the Secretary of State thinks fit. Amendment 203 would provide that such an order must be made by statutory instrument subject to the affirmative resolution procedure in Parliament.

Lords Amendments 76 and 77

46. Amendments 76 and 77 would amend clause 117 on fees paid by registered providers to the regulator as a condition of registration. They would require the regulator to obtain the Secretary of State approval before setting principles about the payment of fees. They would remove the requirement for the regulator to consult the Secretary of State, given the requirement for approval.

Lords Amendment 78

47. Amendment 78 would permit the Secretary of State to provide by order for any appeals under clause 121 to be heard by the First-tier tribunal instead of the High Court. Clause 121 covers appeals against a decision by the regulator to refuse to register a body, to de-register a body, or to refuse to de-register a body.

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Lords Amendments 79 and 80

48. Amendments 79 and 80 would amend clause 124 of the Bill. Clause 124 amends section 51 of, and Schedule 2 to, the Housing Act 1996 (schemes for investigation of complaints by housing ombudsman). The amendments would ensure that former registered providers of social housing, and bodies formerly registered with the Housing Corporation, are only required to remain members of a housing ombudsman scheme while they continue to own publicly-funded dwellings.

Lords Amendments 81 and 82

49. Amendments 81 and 82 would amend clauses 144 and 145 to ensure that if the regulator presents a petition for the winding up of a registered provider under clause 165 this does not trigger a moratorium on the disposal of the provider's land.

Lords Amendments 83 and 86

50. Amendment 83 would amend clause 148 and amendment 86 would introduce a new clause. Clause 148 provides that during a moratorium certain disposals of land by a registered provider require the regulator's prior consent. A disposal without consent is void. The amendments would ensure that the disposal is not void if it is of a single dwelling and the registered provider reasonably believes at the time of the disposal that the buyer intends to use it as the buyer's principal residence.

Lords Amendments 84, 85, 93 and 94

51. Amendments 84, 85, 93 and 94 would ensure that disposals under section 173 of the Local Government and Housing Act 1989 do not need the regulator's consent under clauses 149 and 172, as consent is already needed under that Act.

Lords Amendments 87 and 88

52. Amendments 87 and 88 would ensure that, when the regulator transfers the land of a non-profit registered provider after it has been wound up using its powers under clauses 166-168, it may not transfer that land to a profit-making registered provider.

Lords Amendment 89

53. This amendment would ensure that a non-profit registered provider may

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dispose of the landlord's interest under a secure tenancy only to another non-profit registered provider. So a non-profit registered provider could never transfer the landlord's interest under a secure tenancy to a profit-making registered provider.

Lords Amendments 90 and 91, 95, 96, 101 and 102

54. Amendment 90 would provide that non-profit registered providers need only seek consent for disposals of social housing. In other words, consent would not be required for disposals of land other than social housing. Amendment 102 makes similar amendment in relation to disposals under section 173 of the Local Government and Housing Act 1989. Amendments 91 and 95 are consequential on amendment 90.

55. Amendment 96 would require a non-profit registered provider which disposes of land other than social housing to notify the regulator of the disposal. There is power for the regulator to dispense with this requirement.

56. Amendment 101 would provide that the disposal consent provisions continue to apply in relation to the disposal of land where it ceases to be a dwelling, or where exception 2 or 3 in clause 172 applies, a change of use of that land.

Lords Amendment 92

57. Amendment 92 would ensure that profit-making registered providers (as well as non-profit registered providers) are exempt from the requirement to obtain consent from the regulator before granting a residential tenancy of a type listed in clause 172(2).

Lords Amendments 97 and 98

58. Amendments 97 would clarify that where clause 175 requires that a registered provider place the proceeds of a disposal into their "disposal proceeds fund", the Homes and Communities Agency cannot recover social housing grant under clause 35.

59. Amendment 98 would require the regulator to obtain the Secretary of State's approval for a direction on how sums in the disposals proceeds fund may be used or allocated.

Lords Amendment 99

60. Amendment 99 would clarify that in clause 181 "infrastructure" has the same meaning as in Part 1.

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Lords Amendments 104 to 107, 128 and 129

61. Amendments 104 to 107 and 128 to 129 would amend clauses 194, 195 and 213. They would add to the list of persons who the regulator (or the Secretary of State in clause 195) must consult: when setting standards; when issuing, revising or withdrawing a code of practice; before giving a direction; and before giving guidance. The additional persons who must be consulted are: the Audit Commission; and one or more bodies appearing to the regulator (or the Secretary of State in clause 195) to represent the interests of local housing authorities.

Lords Amendments 108 to 119, 304, 306 and 309

62. These amendments related to the inspection of registered providers.

63. Amendment 108 would add a new clause after clause 198. Under the new clause the regulator may arrange for an inspection of a registered provider's performance in relation to provision of social housing or its financial and other affairs. The regulator would not be able to carry out an inspection itself. If the main purpose of an inspection is to assess whether a registered provider is complying with standards under clause 191 the clause would require the regulator to invite the Audit Commission to carry out the inspection. If the Audit Commission agrees to carry out the inspection the regulator must reimburse its costs. If the Audit Commission declines the regulator may appoint someone else to carry out the inspection. In the case of an inspection which does not relate to standards under clause 191 the regulator is free to appoint whoever it wants. Amendments 109, 110, 112, 115 and 119 are consequential on Amendment 108. Amendments 304, 306 and 309 are consequential on these amendments.

64. Amendment 111 would make it clear that a person who carries out an inspection may publish the inspection report and any related information (whether or not the regulator has done so).

65. Amendments 113 and 114 would require the regulator to consult the Audit Commission before prescribing a scale of fees for inspections in accordance with clause 199.

66. Amendments 116, 117 and 118 would amend clause 200 so as to extend the powers conferred on inspectors. In particular amendment 116 would make it clear that an inspector's power to enter premises and inspect, copy or take away documents includes the power to inspect computers or electronic storage devices.

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Lords Amendments 120 to 122

67. Amendments 120 to 122 would ensure that every individual conducting an inquiry under clause 203 is independent of the regulator. As currently drafted clause 203 requires only one of the individuals carrying out an inspection to be independent. The amendment would also provide that a consultant currently providing services to the regulator is not independent for these purposes.

Lords Amendment 123

68. Amendment 123 would remove subsection (4) from clause 211 because it is duplicated at clause 211(6) (a)

Lords Amendments 130, 131, 133, 138 to 140, 143 to 146 and 167

69. Amendments 130 and 131 would remove clauses 219 and 220. Those clauses provide that before giving an enforcement notice the regulator must give a warning notice and allow 28 days for the registered provider to make representations. Amendments 133, 138 to 140, 143 to 146 and 167 are consequential on Amendments 130 and 131.

Lords Amendments 132 and 137

70. Amendments 132 and 137 would amend clauses 229 and 241 (warning notices about penalties and compensation) so as to restrict the matters that need to be explained in a warning notice. The amendments are for stylistic consistency with clauses 227(4) and 239(4).

Lords Amendments 134 to 136

71. Amendments 134 to 136 would leave out references to occupiers in clause 237. The references are unnecessary because “tenant” is defined by clause 274 to include other occupiers.

Lords Amendments 141, 142, 147 and 155 to 164

72. Amendments 141, 147, 155 and 157 to 164 would amend the regulator’s enforcement powers of management transfer, transfer of land, amalgamation, restriction on dealings and removal or suspension of an officer. They would remove the regulator’s power to use any of these powers on the sole ground that a standard has been breached.

73. Amendment 142 would mean that before imposing a requirement to transfer management functions under clause 248 the regulator must obtain the Secretary of State’s consent. Similarly Amendment 156 provides that the

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Secretary of State's consent is required before the regulator acts under clause 254 (amalgamation of registered providers).

Lords Amendments 148 to 154

74. Amendments 148 to 151 and 153 would allow the regulator to require a profit-making registered provider to transfer land to the regulator or another registered provider. Clause 252 already allows for this in relation to non-profit registered providers.

75. Amendment 152 would lay down certain rules about the nature of requirements that may be imposed on non-profit and profit-making registered providers under clause 252. A profit-making registered provider could be required to transfer land only if it were social housing or associated land. And a non-profit registered provider could not be required to transfer land to a profit-making registered provider.

76. Amendment 154 would lay down rules about how the regulator may dispose of land which has been transferred to it under clause 252.

Lords Amendments 165 and 166

77. Amendments 165 and 166 would include a definition of "local housing authority" in the list of definitions at clauses 274 and 275.

Lords Amendment 168

78. Amendment 168 would give effect to the list of consequential amendments of enactments in other legislation to be inserted as a new Schedule before Schedule 9.

Lords Amendments 169 to 171

79. These amendments would make changes to clause 293 which amends Schedule 3A to the Housing Act 1985. Amendment 169 would allow a local authority to hold a ballot as soon as it has served the notice giving details of the transfer proposal on the tenants. As originally drafted the local authority could not arrange the ballot until the period for making representations to the Secretary of State had expired. Amendment 170 would place a requirement on the appropriate authority (the Secretary of State in England and the Welsh Ministers in Wales) to issue guidance to the local authority about the consultation and ballot process with tenants. It would also require local authorities to have regard to the guidance.

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Lords Amendment 172

80. Amendment 172 would amend the definition of registered social landlord in Wales to take account of the changes that are being made in Part 2 of the Bill. Once clause 63 is fully in force the definition of a registered social landlord will be relevant only to Wales.

Lords Amendments 173 to 189, 221 and 223

81. Amendments 175, 176, 183 and 184 would provide that any amendment or repeal of the matters required to be included in the landlord's notice to the tenant before a family intervention tenancy is entered into must be made by statutory instrument which is subject to the affirmative procedure.

82. Amendments 177, 178, 180, 185, 188 and 189 would provide that the behaviour support services offered to a tenant under a Family Intervention Tenancy must be identified in a behaviour support agreement. This is defined as an agreement in writing between the tenant and the local housing authority and (in the case of tenancies made by housing associations) the landlord about behaviour and the provision of support services.

83. Amendments 173, 174, 179, 181, 182, 186 and 187 are minor and technical, introduced to make sure Family Intervention Tenancy provisions function in the way intended.

84. Amendment 221 and 223 would provide for provisions about Family Intervention Tenancies to be commenced by order made by the Secretary of State (for England) or the Welsh Ministers (for Wales).

Lords Amendments 190 to 198, 220 and 275

85. Amendments 190 and 192 would ensure that the review of the district valuer's determination did not proceed if the determination was superseded by a re-determination, and would clarify that the re-determination itself could be reviewed.

86. Right to Buy applicants have 12 weeks after they receive their landlord's offer notice to decide whether or not to proceed with their application. Amendments 194, 196, 197 and 198 would specify the exact point at which this 12 week period commenced, following a determination and a re-determination, according to whether or not a review notice is served by the district valuer.

87. Amendment 195 would place a duty on the landlord to inform tenants about the review process, and would also remove a superfluous phrase from section 128(2) of the Housing Act 1985.

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88. Amendments 220 and 275 are technical; Amendment 275 adds deleted words to Schedule 16 and Amendment 220 deals with commencement of this repeal.
89. Amendments 191 and 193 would clarify that where a district valuer carried out a fresh determination of the value of a property in relation to a Right to Buy application, he or she should revalue it as at the date on which the Right to Buy application was made.

Lords Amendment 199

90. Amendment 199 would make a technical change to ensure that the definition of “housing authority” in Clause 308 reflects the transition from the Housing Corporation to the Homes and Communities Agency proposed by Parts 1 and 2 of this Bill.

Lords Amendments 200, 262, 277, 290 and 310

91. These amendments would remedy the ECHR incompatibility of section 185(4) of the Housing Act 1996, section 119(1) of the Immigration and Asylum Act 1999 and Article 7A(4) of the Housing (Northern Ireland) Order 1998, which currently require local housing authorities in England, Wales and Scotland (and the Housing Executive in Northern Ireland) to disregard ineligible household members when deciding whether an applicant for housing assistance is homeless or has a priority need for accommodation.
92. The amendments made by this new Schedule to homelessness legislation in England and Wales, Northern Ireland and Scotland mean that the disregards will no longer apply in the case of an applicant for housing assistance who is a British citizen, a Commonwealth citizen with a right of abode in the UK, or an EEA or Swiss national exercising an EU Treaty right to reside in the UK.
93. The amendments would also change the nature of the duty owed to applicants who are found to be homeless and to have a priority need but only in reliance on a household member who is a “restricted person” (a person who requires leave to enter or remain in the UK and does not have it, or a person who does have the required leave but that leave was granted on the condition that the person would have “no recourse to public funds”). In such a case, local housing authorities and the Housing Executive in Northern Ireland would be required, so far as possible, to bring their duty to house the applicant to an end by ensuring that an offer of accommodation for a period of at least 12 months in the private rented sector is made to the applicant. If such an offer is made, the duty would be discharged whether or not the applicant accepts the offer.

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94. In addition, the amendments would provide that those applicants who are owed a homelessness duty only because they relied on a restricted person to convey homelessness or priority need would not be given priority for an allocation of social housing.

Lords Amendment 201

95. This amendment would remove reference to clause 17 in clause 318 and is consequential on amendment 24.

Lords Amendments 202, 207 and 208

96. These amendments would provide that a designation order under clause 13 is subject to the affirmative resolution procedure and excludes the possibility of it being treated as a hybrid instrument. Amendment 208 would be consequential on amendment 202.

Lords Amendment 204 and 209

97. Amendments 204 and 209 would ensure that the Secretary of State may make an order amending the maximum penalty under clause 228 by the affirmative resolution procedure.

Lords Amendments 205, 212, 246, 247, 249, 250, 251, 252, 254, 255, 256, 273, 274, 279, 280, 288 and 307

98. These amendments would affect Schedule 10 which deals with tolerated trespassers.

99. Amendments 246 and 247 provide for the repeal of sections 85(5) and (5A) of the Housing Act 1985 and sections 9(5) and (5A) of the Housing Act 1988. These sections assist the resident partners of tolerated trespassers and will be redundant.

100. Amendment 249 would amend paragraph 20, which provides that any court orders made in respect of the possession proceedings will apply as far as practicable to the new tenancy, to clarify that this applies to orders which are in force on the commencement date.

101. Amendment 250 would give the appropriate national authority (the Secretary of State in England and Welsh Ministers in Wales) a power to specify by order that the provisions relating to existing tolerated trespassers, in Part 2 of

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Schedule 10, apply where the landlord has changed. Amendments 205 and 212 would provide that the power is subject to the affirmative resolution procedure.

102. Amendments 251, 252 and 256 relate to the order making powers in part 2 of Schedule 10 which are exercisable by the Secretary of State in England and Welsh Ministers in Wales. Amendments 251 and 252 would provide that the territorial divide is determined by whether the dwelling house is in England or Wales. Amendment 256 would provide that where a dwelling house is partly in England and partly in Wales, the rules for determining Council Tax billing will apply to determine the territorial divide.

103. Amendments 254 and 255 are minor amendments. Amendment 254 would correct an omission by adding the definition of successor where there is a demoted tenancy to which the assured tenancy succession rules apply. Amendment 255 is a consequential amendment.

104. Amendments 273, 274, 279, 280, 288 and 307 would make consequential amendments to Schedule 14 which makes repeals to existing legislation as a result of these changes.

Lords Amendments 206, 210, 213 and 214

105. Amendments 206 and 210 would provide that an order made by the Secretary of State under clause 319 (consequential amendments and repeals) which does not amend or repeal primary legislation is subject to the negative resolution procedure. Amendments 213 and 214 make equivalent provision in relation to orders made by the Welsh Ministers.

Lords Amendment 211

106. This amendment would make it clear that regulations made under clauses 71 and 73 are not subject to the negative resolution procedure but are subject to the affirmative resolution procedure.

Lords Amendment 215

107. This amendment makes it clear that Schedule 14 contains not only repeals (including of spent provisions) but also revocations of subordinate legislation.

Lords Amendment 216 and 219

108. These amendments would provide that Parts 1 to 3 extend to England and Wales (with exceptions) and Part 4 of the Bill extends to the whole of the UK.

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Lords Amendments 217 and 218

109. These amendments to clause 322 would ensure that the territorial extent of certain amendments made by the Bill to other Acts is clear. The amendments specifically mentioned in new subsection (2A) will extend only to England and Wales.

Lords Amendment 222

110. This amendment would make it clear that, as well as repeals, Schedule 14 includes revocations of subordinate legislation.

Lords Amendment 224

111. This amendment would provide that payments made by the Secretary of State to the HCA by way of grant may be made on such terms and conditions as the Secretary of State considers appropriate.

Lords Amendment 226

112. This amendment would remove Part 4 of Schedule 3 to the Bill. The effect of this is to remove the power of the HCA to use any of its land which is, or forms part of, a common, an open space or an allotment in any way, despite anything in legislation.

Lords Amendment 227 and 271

113. This amendment would add a further consequential amendment to the New Towns Act 1981. Amendment 271 would make a consequential amendment to the repeals Schedule.

Lords Amendments 228, 229 and 230

114. These amendments would clarify the ability to transfer property, rights and liabilities between transferees.

Lords Amendments 231, 238, 239, 240, 243, 244, 267, 284 and 285

115. These amendments would make consequential amendments to existing primary legislation, to ensure that those Acts reflect the correct legal position once the HCA has been created and the predecessor bodies abolished. Where these amendments impact on taxation legislation the intention is that the amendments maintain the current position and have a tax-neutral effect.

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Lords Amendments 232, 233 and 264

116. Amendment 232 and 233 would make consequential amendments to existing primary legislation to ensure that those Acts reflect the correct legal position once the HCA has been created and the predecessor bodies abolished. Amendment 264 would make a consequential amendment to the repeals Schedule.

Lords Amendments 234, 265 and 281

117. These amendments would make consequential amendments to existing primary legislation to ensure that those Acts reflect the correct legal position once the HCA has been created and the predecessor bodies abolished. Amendments 265 and 281 would make a consequential amendment to the repeals Schedule.

Lords Amendments 235 and 266

118. Amendment 235 would make consequential amendments to existing primary legislation to ensure that those Acts reflect the correct legal position once the HCA has been created and the predecessor bodies abolished. Amendment 266 would make a consequential amendment to the repeals Schedule.

Lords Amendments 236 and 269

119. Amendment 236 would make consequential amendments to existing primary legislation to ensure that those Acts reflect the correct legal position once the HCA has been created and the predecessor bodies abolished. Amendment 269 would make a consequential amendment to the repeals Schedule.

Lords Amendments 237, 270, 272, 278 and 283

120. Amendment 237 would make consequential amendments to existing primary legislation to ensure that those Acts reflect the correct legal position once the HCA has been created and the predecessor bodies abolished. Amendments 270, 272, 278 and 283 would make a consequential amendment to the repeals Schedule.

Lords Amendments 241, 287, 289 and 297

121. Amendment 241 would make consequential amendments to existing primary legislation to ensure that those Acts reflect the correct legal position once the

These notes relate to the Lords Amendments to the Housing and Regeneration Bill, as brought from the House of Lords on 17th July 2008 [Bill 142]

HCA has been created and the predecessor bodies abolished. Amendments 287, 289 and 297 would make a consequential amendment to the repeals Schedule.

Lords Amendments 242 and 298

122. Amendment 242 would make consequential amendments to existing primary legislation to ensure that those Acts reflect the correct legal position once the HCA has been created and the predecessor bodies abolished. Amendment 298 would make a consequential amendment to the repeals Schedule.

Lords Amendments 248 and 253

123. Amendments 248 and 253 would amend the definition of “commencement date” in paragraphs 14 and 25 to exclude the order making powers in Part 2 of Schedule 10. This would allow for exercise of these powers before commencement of the main provisions in the Schedule.

Lords Amendments 257 and 258

124. These amendments would require that the first use of the powers to make regulations about the provision by landlords of information to their tenants about service charges, and reports about those service charges by a qualified person, in the new section 21 of the Landlord and Tenant Act 1985 (which is introduced by Schedule 12 to this Bill) would be subject to the affirmative resolution procedure.

Lords Amendments 259 to 261

125. Amendments 259 and 260 would close a loophole in Schedule 5A to the Housing Act 1985 to prevent a landlord serving an initial demolition notice immediately after a final demolition notice has expired, as this was not the intention of the Act of 1985.

126. Amendment 261 would extend the maximum time limit of an initial demolition notice from 5 years to 7 years. This reflects the extended timescale needed for a number of regeneration schemes.

Lords Amendments 286, 291, 292, 293, 296, 300, 301, 302, 303, 305 and 308

127. These amendments would make amendments to the repeals Schedule consequential on provisions in the Bill.

These notes relate to the Lords Amendments to the Housing and Regeneration Bill, as brought from the House of Lords on 17th July 2008 [Bill 142]

FINANCIAL EFFECTS OF THE LORDS AMENDMENTS

128. Local authorities and the Housing Executive in Northern Ireland may incur extra costs as a result of the small number of additional persons qualifying for assistance each year that would result from the changes made by amendments 200 and 262 to the rules on eligibility of persons from abroad for homelessness assistance. It is not expected that these costs would be significant.

HOUSING AND REGENERATION BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

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