Draft Order laid before Parliament under section 95(5)(b) of the Government of Wales Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

CONSTITUTIONAL LAW

DEVOLUTION, WALES

The National Assembly for Wales (Legislative Competence) (Housing) Order 2009

Made - - - - 2009

Coming into force in accordance with Article 1

At the Court at Buckingham Palace, the day of 2009

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 95(5) of the Government of Wales Act 2006(**a**), a draft of this Order has been laid before, and approved by resolution of, the National Assembly for Wales and each House of Parliament.

Accordingly, Her Majesty, in pursuance of section 95(1) of the Government of Wales Act 2006, is pleased, by and with the advice of Her Privy Council, to order as follows:-

Citation, commencement and interpretation

1.—(1) This Order may be cited as the National Assembly for Wales (Legislative Competence) (Housing) Order 2009.

(2) This Order shall come into force on the day after the day on which it is made.

(3) In this Order "the 2006 Act" means the Government of Wales Act 2006.

Amendments to Schedule 5 to the Government of Wales Act 2006

2.—(1) In Part 1 of Schedule 5 to the 2006 Act, in field 11 (housing) insert—

(**a**) 2006 c.32.

"*Matter 11.1*

Disposal by a social landlord of land held or used for housing purposes.

For the purposes of this matter, a disposal of land held or used for housing purposes includes, in particular, a disposal of land to which any of the following applies—

(a) a provision of Part 2 of the Housing Act 1985;

(b) a provision of Part 5 of the Housing Act 1985;

(c) a provision of Chapter 2 of Part 1 of the Housing Act 1996;

(d) a provision of Chapter 4 of Part 1 of the Housing Act 1996.

Interpretation of this field

In this field "social landlord" means any of the following—

(a) a county council or county borough council in Wales;

(b) a development corporation established by an order made, or having effect as if made, under the New Towns Act 1981;

(c) a housing action trust established under section 62 of the Housing Act 1988;

(d) a housing association within the meaning of section 5 of the Housing Act 1985;

(e) a housing trust within the meaning of section 6 of the Housing Act 1985;

(f) a housing co-operative within the meaning of section 27B of the Housing Act 1985(**a**);

(g) an urban development corporation established under section 135 of the Local Government, Planning and Land Act 1980;

(h) the Welsh Ministers;

(i) a social landlord registered under Chapter 1 of Part 1 of the Housing Act 1996;

(j) a provider of social housing registered under Chapter 3 of Part 2 of the Housing and Regeneration Act 2008;

(k) a manager appointed under Chapter 4 of Part 1 of the Housing Act 1996;

(l) a person to whom a grant has been paid under section 27A of the Housing Act 1996(**b**).".

(2) In Part 2 of Schedule 5 to the 2006 Act (general restrictions), after paragraph 2A(**c**) insert—

"*Housing*

2B.—(1) A provision of an Assembly Measure cannot abolish any of the following—

(a) the right to buy under section 118 of the Housing Act 1985;

(b) the preserved right to buy under section 171A of the Housing Act 1985(**d**);

(c) the right to acquire under section 16 of the Housing Act 1996.

(2) For the purposes of this paragraph, neither of the following is to be taken to be abolition of such a right—

(a) suspension of the right in particular circumstances;

(b) modification of the right so that it ceases to apply in relation to particular classes of dwelling.

(**a**) Section 27B was inserted by section 10 of the Housing and Planning Act 1986 (c.63).
(**b**) Section 27A was inserted by section 220 of the Housing Act 2004 (c.34).
(**c**) Paragraph 2A was inserted by the Local Government and Public Involvement in Health Act 2007 (c.28), section 235 and Schedule 17, paragraphs 1 and 3.
(**d**) Section 171A was inserted by section 8 of the Housing and Planning Act 1986 (c.63).

(3) In this paragraph "dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it.".

(3) In Part 3 of Schedule 5 to the 2006 Act (exceptions from Part 2), after paragraph 7A(**a**) insert—

"*Housing*

7B.—(1) If sub-paragraph (2) applies, Part 2 does not prevent a provision of an Assembly Measure from abolishing any of the following—

(a) the right to buy under section 118 of the Housing Act 1985;

(b) the preserved right to buy under section 171A of the Housing Act 1985;

(c) the right to acquire under section 16 of the Housing Act 1996.

(2) This sub-paragraph applies if both the Welsh Ministers and the Secretary of State consent to the provision.".

Name

Clerk of the Privy Council

(**a**) Paragraph 7A was inserted by the Local Government and Public Involvement in Health Act 2007 (c.28), section 235 and Schedule 17, paragraphs 1 and 4.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Government of Wales Act 2006 ("the 2006 Act"). The Order extends the legislative competence of the National Assembly for Wales to make laws known as Measures of the National Assembly for Wales (referred to in the 2006 Act as "Assembly Measures"). The legislative competence conferred by this Order is subject to general limitations on the exercise of that legislative competence, which apply by virtue of section 94 of, and Schedule 5 to, the 2006 Act.

Article 2(1) inserts matter 11.1 and interpretation provisions into field 11 (housing) of Part 1 of Schedule 5 to the 2006 Act. The matter is about disposals by social landlords of land held or used for housing purposes.

Article 2(2) inserts paragraph 2B into Part 2 of Schedule 5 (general restrictions), which provides that a provision of an Assembly Measure cannot abolish the right to buy, preserved right to buy or right to acquire. For those purposes, neither of the following is to be taken to be abolition of those rights—

(a) suspension of the rights in particular circumstances;

(b) modification of those rights so that they cease to apply in relation to particular classes of dwelling.

Article 2(3) inserts paragraph 7B into Part 3 of Schedule 5 (exceptions from Part 2), which provides that Part 2 of Schedule 5 does not prevent a provision of an Assembly Measure from abolishing the right to buy, preserved right to buy or right to acquire if both the Welsh Ministers and the Secretary of State consent to the provision.

A full regulatory impact assessment has not been prepared for this Order as no impact on the private or voluntary sectors is foreseen.

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£4.00

E3617 1/2009 193617T 19585