

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL HOUSING (REGULATION) ACT 2023 (CONSEQUENTIAL AND**  
**MISCELLANEOUS AMENDMENTS) REGULATIONS 2024**

**2024 No. [XXXX]**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities (DLUHC) and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Declaration**

- 2.1 Baroness Scott, Parliamentary Under Secretary of State at DLUHC confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Ruhena Ahmed, Deputy Director for the Social Housing Quality Programme at DLUHC confirms that this Explanatory Memorandum meets the required standard.

**3. Contact**

- 3.1 Joshua Desbottes at DLUHC, email: [joshua.desbottes@levellingup.gov.uk](mailto:joshua.desbottes@levellingup.gov.uk) can be contacted with any queries regarding the instrument.

**Part One: Explanation, and context, of the Instrument**

**4. Overview of the Instrument**

*What does the legislation do?*

- 4.1 Schedule 1 of this instrument makes a number of amendments to primary and secondary legislation consequential to the Social Housing (Regulation) Act 2023 (“the 2023 Act”). That Act makes provision about the regulation of social housing, including the bodies potentially eligible to voluntarily register, the housing moratorium regime and the regulator’s powers of enforcement. It also amends the special housing administration regime.
- 4.2 Schedule 2 makes miscellaneous amendments to primary legislation in connection to the regulation of social housing.

*Where does the legislation extend to, and apply?*

- 4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, except for regulation 1 (which sets out formalities) and the provisions which amend the Housing and Planning Act 2016 which have UK-wide extent.
- 4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, except for regulation 1 and the provisions which amend the Housing and Planning Act 2016 which have UK-wide application.

## 5. Policy Context

### *What is being done and why?*

- 5.1 Schedule 1 makes consequential amendments to the Greater London Authority Act 1999, the Housing and Regeneration Act 2008 (“the 2008 Act”), the Charities Act 2011 and the Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016. These amendments are necessary to reflect the changes made to each of those legislative provisions by the Social Housing (Regulation) Act 2023, as set out further below.
- 5.2 Schedule 2 makes miscellaneous amendments in relation to the regulation of social housing. These amendments are necessary to correct reference errors in existing legislation, as set out further below.

### *What was the previous policy, how is this different?*

#### Schedule 1, Part 1

- 5.3 Paragraph 1(2) is consequential on section 6 of the 2023 Act which excluded local authorities from the definition of “English bodies” in section 79 of the 2008 Act. To maintain the existing policy, under which local authority housing should be subject to the regulation regime, section 59 is amended to make clear that the purpose of Part 2 of the 2008 Act includes the regulation of social housing provided by local authorities, as well as English bodies.
- 5.4 Paragraphs 1(3) and 1(4) are consequential on section 12 of the 2023 Act which amends provision in the 2008 Act about housing moratoriums. They make amendments to section 100G and 147 to reflect that fact that a moratorium will no longer be triggered by notice but an event in section 145(2) occurring.
- 5.5 Paragraph 1(5) is consequential on section 4 of the 2023 Act which makes various changes to the Regulator of Social Housing’s power to charge fees in section 117 of the 2008 Act. It amends section 220 to reflect that the Regulator of Social Housing will no longer charge local authorities fees for initial registration.
- 5.6 Paragraph 1(6) is consequential on the insertion of new sections 225A to 225H by section 32 of the 2023 Act (emergency remedial action) immediately after section 225 of the 2008 Act. This change clarifies the relevant section numbers.
- 5.7 Paragraph 1(7) amends 237(1)(a) of the 2008 Act to substitute “either” with “any”. This is in consequence of the insertion by section 31(5) of the 2023 Act of two further cases where an award of compensation might arise under section 237, meaning there are now more than two cases, making the term “either” inappropriate.
- 5.8 Paragraph 1(8) removes the term “non-profit” from the cross-heading before section 256 of the 2008 Act. This is consequential on certain changes made by Schedule 3 of the 2023 Act removing restrictions on powers that previously applied in relation to non-profit providers only.
- 5.9 Paragraph 1(9) inserts definitions for ‘English body’, ‘Housing Ombudsman’ and ‘Emergency remedial action’ to the 2008 Act’s index of defined terms. These changes are consequential on section 5(5) of the 2023 Act which adds a definition of “housing ombudsman”, section 6 which amends the definition of “English body” and section 32 which inserts new sections into the Housing and Regeneration Act 2009 relating to emergency remedial action including a definition of that term.

Schedule 1, Part 2

- 5.10 Paragraph 3 is consequential on section 8 of the 2023 Act which makes changes to the conditions which must be satisfied for a body to be designated a non-profit organisation under the 2008 Act. Because of this change not all charitable registered societies will be designated “non-profit”. This amendment ensures that exempt charity status is not dependent.
- 5.11 Paragraph 4 amends the housing administration provisions of the Housing and Planning Act 2016 to remove various references to foreign companies and related provision. This is consequential on section 6 of the 2023 Act which, among other things, amends the definition of “English body” so that no foreign company or other body may be a private registered provider of social housing. Consequently, the references to foreign companies are no longer required.

Schedule 1, Part 3

- 5.12 Paragraph 5 amends the Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 to refer to the new definition of “community land trust” inserted into section 2(7A) of the Leasehold Reform (Ground Rent) Act 2022 by paragraph 49 of Schedule 5 to the 2023 Act

Schedule 2

- 5.13 Schedule 2 makes miscellaneous amendments in relation to the regulation of social housing.
- 5.14 Paragraph 1(2) amends the 2008 Act to remove a redundant reference to a section which was repealed by the Housing and Planning Act 2016.
- 5.15 Paragraph 1(3) amends a provision of the 2008 Act inserted by S.I. 2010.844, in order to clarify a cross reference.

**6. Legislative and Legal Context**

*How has the law changed?*

- 6.1 The 2023 Act amends the 2008 Act to facilitate a new, proactive approach to regulating social housing landlords. The amendments focus on consumer issues such as safety, transparency and tenant engagement, and ensure that landlords govern well, are financially viable and are held to account for their competence and conduct through new compliance monitoring and inspection regimes, and by strengthening the Regulator of Social Housing’s enforcement powers. Part 1 of Schedule 1 contains consequential amendments to the 2008 Act which are necessary in consequence of changes made to that Act by the 2023 Act.
- 6.2 Part 2 of Schedule 1 makes consequential amendments to the Greater London Authority 1999, the Charities Act 2011 and the Housing and Planning Act 2016, which are necessary in consequence of changes made by the 2023 Act.
- 6.3 Part 3 of Schedule 1 makes a consequential amendment to the Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 in consequence of a change made by the 2023 Act.
- 6.4 Schedule 2 makes miscellaneous amendments to correct existing reference errors caused by previous legislative changes.

*Why was this approach taken to change the law?*

6.5 This is the only possible approach to make the necessary changes.

## **7. Consultation**

*Summary of consultation outcome and methodology*

7.1 No formal public consultation was deemed necessary for the minor consequential and miscellaneous amendments made by this instrument.

7.2 The 2023 Act received Royal Assent and became an Act of Parliament on 20 July 2023. The Department consulted extensively on the policies, including through a formal consultation process and information engagement with relevant bodies.

## **8. Applicable Guidance**

8.1 This instrument does not require guidance.

## **Part Two: Impact and the Better Regulation Framework**

## **9. Impact Assessment**

9.1 A full Impact Assessment has not been prepared for this instrument because we do not anticipate any significant impacts. An Impact Assessment was prepared and published for the 2023 Act.<sup>1</sup>

9.2 Impact on businesses, charities and voluntary bodies

9.3 There is no, or no significant, impact on business, charities or voluntary bodies because these are solely consequential changes.

9.4 The legislation does not impact small or micro businesses.

9.5 There is no, or no significant, impact on the public sector because these are solely consequential changes.

## **10. Monitoring and review**

*What is the approach to monitoring and reviewing this legislation?*

10.1 The Department does not propose to monitor the effects of this instrument. Undertaking a review would be disproportionate to the changes being made.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Baroness Scott, Parliamentary Under Secretary of State for Faith and Communities has made the following statement: “it would be disproportionate to conduct a review of the effects of this instrument”.

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<sup>1</sup> Impact assessment for the Social Housing (Regulation) Act 2023: [bills.parliament.uk/publications/46714/documents/1906](https://bills.parliament.uk/publications/46714/documents/1906)

### **Part Three: Statements and Matters of Particular Interest to Parliament**

#### **11. Matters of special interest to Parliament**

- 11.1 This instrument is the first exercise of the power under section 44 of the Social Housing (Regulation) Act 2023.

#### **12. European Convention on Human Rights**

- 12.1 Baroness Scott of Bybrook, the Parliamentary Under Secretary of State for Faith and Communities with responsibility for social housing, has made the following statement regarding Human Rights:

“In my view the provisions of the Social Housing (Regulation) Act 2023 (Consequential and Miscellaneous Amendments) Regulations 2024 are compatible with the Convention rights.”

#### **13. The Relevant European Union Acts**

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).