

Constitutional and Legislative
Affairs Committee

Report on the Abolition of the Right to Buy and Associated Rights (Wales) Bill

July 2017



National Assembly for Wales
Constitutional and Legislative Affairs Committee

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The committee was established on 15 June 2016 to carry out the functions of the responsible committee set out in Standing Order 21 and to consider any other constitutional, legislative or governmental matter within or relating to the competence of the Assembly or the Welsh Ministers, including the quality of legislation.

Current Committee membership:



Huw Irranca-Davies AM (Chair)
Welsh Labour
Ogmore



Nathan Gill AM
Independent
North Wales



Dai Lloyd AM
Plaid Cymru
South Wales West



David Melding AM
Welsh Conservative
South Wales Central



Dafydd Elis-Thomas AM
Independent
Dwyfor Meirionnydd

Contents

Recommendations.....	5
01. Introduction.....	6
02. Legislative competence	9
03. General observations	12
04. Observations on specific powers to make subordinate legislation	14

Recommendations

Recommendation 1. We recommend that the Cabinet Secretary should fully explain during the Stage 1 debate his reasons for introducing a Bill that amends existing UK legislation rather than one that is consolidated and free-standing.

..... Page 13

Recommendation 2. We recommend that the Cabinet Secretary should table an amendment to the Bill to place an absolute duty on the Welsh Ministers to provide every qualifying landlord based in Wales with a copy of the information document set out in section 8..... Page 13

Recommendation 3. We recommend that the existing qualified duty on the Welsh Ministers to provide every qualifying landlord with a copy of the information document (section 8(1)(c)) should only apply to landlords based outside of Wales, and that the Cabinet Secretary should table an amendment to the Bill to that effect. Page 13

Recommendation 4. We recommend that the Cabinet Secretary should table an amendment to the Bill to delete the words “or expedient” from section 9.

.....Page16

Recommendation 5. We recommend that the Cabinet Secretary should table an amendment to the Bill to make it clear that section 10(1) applies only to the regulation-making power in section 9. Page 16

01. Introduction

The Committee's remit

1. The remit of the Constitutional and Legislative Affairs Committee (the Committee) is to carry out the functions of the responsible committee set out in Standing Order 21¹ (with the exception of Standing Order 21.8²) and to consider any other constitutional, legislative or governmental matter within or relating to the competence of the National Assembly or the Welsh Ministers, including the quality of legislation.
2. In our scrutiny of Bills introduced in the National Assembly our approach is to consider:
 - matters relating to the competence of the National Assembly, including compatibility with the European Convention on Human Rights (ECHR);
 - the balance between the information that is included on the face of the Bill and that which is left to subordinate legislation;
 - whether an appropriate legislative procedure has been chosen, in relation to the granting of powers to the Welsh Ministers, to make subordinate legislation; and
 - any other matter we consider relevant to the quality of legislation.

Introduction of the Bill

3. On 13 March 2017, Carl Sargeant AM, the Cabinet Secretary for Communities and Children (the Cabinet Secretary), introduced the **Abolition of the Right to Buy and Associated Rights (Wales) Bill** (the Bill) and accompanying **Explanatory Memorandum**.³
4. The National Assembly's Business Committee referred the Bill to the **Equality, Local Government and Communities Committee** on 14 February 2017, and on 7 March 2017, set a deadline of 7 July 2017 for reporting on its general principles.⁴
5. On 13 March 2017, we received a copy of a letter from the Cabinet Secretary to the Chair of the Equality, Local Government and Communities Committee enclosing the **Policy intent for subordinate legislation to be made under the Bill**.⁵
6. We considered the Bill at our meeting on **3 April 2017**, taking evidence from the Cabinet Secretary and two Welsh Government officials.
7. Following that meeting, on 22 May 2017 the Cabinet Secretary **wrote** to the Chair of the Equality, Local Government and Communities Committee to provide further information, including about the application of the ECHR in areas where the right to buy is suspended. We formally noted this correspondence at our meeting of **12 June 2017**.

¹ National Assembly for Wales, **Standing Orders of the National Assembly for Wales**, April 2017

² Functions under Standing Order 21.8 are the responsibility of the **External Affairs and Additional Legislation Committee**

³ Welsh Government, **Abolition of the Right to Buy and Associated Rights (Wales) Bill, Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes**, March 2017

⁴ Business Committee, **Report on the timetable for consideration of the Abolition of the Right to Buy and Associated Rights (Wales) Bill**, March 2017

⁵ Welsh Government, **Policy intent for subordinate legislation to be made under the Bill**, March 2017

8. We also received a copy of a **letter** to the Chair of the Equality, Local Government and Communities Committee dated 21 June 2017, enclosing a draft of anticipated consequential amendments to the **Housing Act 1985**.

Background

9. The primary purpose of the Bill is to protect social housing stock by removing the obligation on social landlords to sell their properties. The Bill does this by ending all variations of the right to buy in Wales by amending the *Housing Act 1985* and the **Housing Act 1996**.

10. The Explanatory Memorandum accompanying the Bill states that the Bill:

“...will end all variations of the Right to Buy and the Right to Acquire. There will be at least a one-year notice period after Royal Assent before abolition of these rights. The rights in respect of new-supply social housing will end two months after Royal Assent.”⁶

11. The Welsh Government claims that the Bill “which reflects the core values of fairness, social justice, equality and sustainable development, recognises the importance of safe, secure and affordable homes as being part of the fabric of people’s lives and of strong communities”.⁷

12. The Explanatory Memorandum also states that the Bill is aligned with the sustainable development principle of the **Well-being of Future Generations (Wales) Act 2015**. It says:

“Protecting Wales’ social rented housing stock from further reduction, which also encourages local authorities and others to invest in new social housing, is based on the principle of ensuring the present needs are best met without compromising the ability of future generations to meet their accommodation needs. The removal of the rights of eligible social housing tenants to purchase their homes via the Right to Buy is balanced against the commitment to improve the wellbeing of the majority, including vulnerable people, who otherwise would be unable to afford a home.”⁸

13. The **Housing (Wales) Measure 2011** enables a local authority to apply to the Welsh Ministers to suspend the right to buy and the right to acquire in its area because of pressures on social housing. The Explanatory Memorandum states:

“In the five years since the Measure received Royal Assent in May 2011, only three applications for suspension have been approved by 31 January 2017 – Carmarthenshire, Swansea and Anglesey. A further two applications are being considered as at 1 February 2017. The reasons put forward by local authorities to explain this include the work involved in putting together an application for suspension – this includes public consultation – and limited resources and capacity. Given the Measure has not had as much impact as anticipated, the continuing demand and supply pressures on housing and the commitment to

⁶ Explanatory Memorandum, paragraph 1.1

⁷ Explanatory Memorandum, paragraph 3.1

⁸ Explanatory Memorandum, paragraph 3.2

help meet people’s housing needs, the Welsh Government has considered other options to protect Wales’ social housing stock.”⁹

14. At the time of writing, the further two applications from Flintshire and Denbighshire to suspend the rights to buy and acquire have been approved by the Welsh Government. This brings the total number of local authorities in Wales where the rights to buy and acquire have been suspended to five.¹⁰

⁹ Explanatory Memorandum, paragraph 3.10

¹⁰ Letter from the Cabinet Secretary for Communities and Children in relation to the Abolition of the Right to Buy and Associated Rights (Wales) Bill (30 April 2017), Annex A, page 3

02. Legislative competence

15. The Explanatory Memorandum states that the National Assembly has the legislative competence to make provision in relation to housing in Wales by virtue of section 108 and Part 1 (Subject 11: Housing) of Schedule 7 to the Government of Wales Act 2006.¹¹

16. When asked if he was satisfied that the Bill is within the Assembly’s competence, the Cabinet Secretary confirmed that he was. He added:

“...the issue of housing is fully devolved to us. We haven’t had any direct conversations with Westminster, but we believe that it’s all within scope.”¹²

17. When questioned if any of the provisions in the Bill would be outside competence if the Wales Act 2017 was already in force, the Cabinet Secretary told us:

“...the timing of this Bill, in advance of the Wales Act, puts this, constitutionally, on a slightly different basis in that we will run by the old rules as opposed to what happens in the Wales Act. So, we don’t believe that there’s anything coming forward in the Wales Act that, even if that preceded this, would be a problem in competence issues.”¹³

Human Rights

18. To be within the legislative competence of the National Assembly, section 108(6)(c) requires all provisions of a Bill to comply with the ECHR.

19. The Explanatory Memorandum indicates that the Bill “potentially engages the European Convention on Human Rights”. It states:

“A minimum notice period of one year is designed to allow tenants time to take advice and to apply to exercise their rights if they wish to do so. The Welsh Government considers this period strikes the necessary fair balance between the rights of the tenant and the wider public interest in safeguarding the stock of social housing available for rent by people on modest incomes who require affordable accommodation. In addition, if the Bill is passed by the National Assembly, there are provisions to ensure tenants are fully informed about abolition and its effect.”¹⁴

20. Sections 2 and 4 of the Bill will prevent tenants from exercising their right to buy or acquire property which is regarded as new social housing stock. Section 6, when in force, will abolish these rights completely. These provisions will have the effect of depriving individuals of the opportunity to exercise their right to buy or acquire. Any provision that deprives an individual of their property will engage Article 1 of Protocol 1 to the ECHR. This says that every person “is entitled to the peaceful enjoyment of their possessions. No one shall be deprived of their possessions except in the public interest and subject to the conditions provided by law”.

¹¹ Explanatory Memorandum, paragraph 2.1

¹² Constitutional and Legislative Affairs Committee (CLA Committee), 3 April 2017, RoP [9]

¹³ CLA Committee, 3 April 2017, RoP [15]

¹⁴ Explanatory Memorandum, paragraph 3.33

21. In its Explanatory Memorandum, the Welsh Government states that “the removal of the rights of eligible social housing tenants to purchase their homes via the right to buy is balanced against the commitment to improve the wellbeing of the majority, including vulnerable people, who otherwise would be unable to afford a home”.¹⁵ It adds that the “intention behind the Bill is to protect the supply of social housing from further erosion in the face of high level of demand and a supply shortage”.¹⁶ The Explanatory Memorandum indicates that the Government’s proposals are supported by evidence from the Joseph Rowntree Foundation.¹⁷ The Explanatory Memorandum also contains further evidence from a public finance perspective to support the aim of the Bill.¹⁸

22. The Cabinet Secretary told us that he believed they had taken reasonable steps to ensure that the human rights aspect of all affected by the Bill would be covered.¹⁹

23. In respect of *Article 1 of Protocol 1* of the ECHR, the Cabinet Secretary said this had been considered, and he again believed that the Welsh Government had taken “reasonable and proportionate steps”.²⁰

24. The Cabinet Secretary expanded on some of the issues considered in arriving at this judgement:

“...we’ve looked at other pieces of legislation of a similar ilk and at how these have been implemented. Again, just reflecting on the fact that these are current rights of individuals and we are removing them, therefore, we have to make sure that we are taking into consideration a full and proper consultation process, informing tenants of the effect of the Act and doing that in a timely manner. We believe that we’ve covered that in the structure of the Bill.”²¹

25. We probed whether the public gain—compared to what would be lost in terms of individual rights—would be large enough to warrant the proposed action. The Cabinet Secretary replied:

“I would end the right to buy today, but it’s not proportionate and we believe that by the way that we are implementing this Act, through all the processes that we put in place, we are being reasonable.”²²

26. We asked the Cabinet Secretary if he considered that the Bill is creating two categories of tenant (one group having a period of grace of one year, but tenants residing in a local authority that has suspended the right to buy not having this period of grace) and if this had been examined from a human rights perspective. The Cabinet Secretary responded:

“We recognise that the provisions and the processes set out under the Housing (Wales) Measure 2011 are also compatible with human rights law. It was also considered to be so by the Government and the Assembly, at the time the Measure was passed for the suspended scenario, we are just continuing on

¹⁵ Explanatory Memorandum, paragraph 3.2

¹⁶ Explanatory Memorandum, paragraph 3.12

¹⁷ Explanatory Memorandum, paragraph 3.12

¹⁸ Explanatory Memorandum, paragraph 3.22

¹⁹ CLA Committee, 3 April 2017, RoP [22]

²⁰ CLA Committee, 3 April 2017, RoP [24]

²¹ CLA Committee, 3 April 2017, RoP [26]

²² CLA Committee, 3 April 2017, RoP [28]

with this piece of legislation to encompass everybody. So, we have considered all aspects of this, including the areas of suspension in terms of human rights.”²³

27. We asked the Cabinet Secretary if he thought he had got the balance between denying citizens, who still have property in the category, the right to buy, and the social agenda. The Cabinet Secretary replied:

“Indeed, and it is key. That’s part of the human rights issue. We are still ensuring that people are aware of this Bill coming into place, so people who have the right to buy will still have time to do that. There are some consequences that we’re expecting, such as a peak spike in the system, but there’s not a lot we can do about that; we accept that principle. But long term, we’ve got to plan for the future here, and the significant investment that we’re making from the public purse into social housing stock has to be protected for the long term, and that’s why we’re introducing this.”²⁴

28. We note the further comments made by the Cabinet Secretary in relation to human rights in his [letter](#) to the Chair of the Equality, Local Government and Communities committee dated 22 May 2017.

Our view

29. We note that no issues have been raised with the Cabinet Secretary by the UK Government regarding the National Assembly’s ability to make this legislation under Schedule 7 of the *Government of Wales Act 2006*.

30. We also note that human rights are engaged as outlined in the Explanatory Memorandum and in the evidence provided by the Cabinet Secretary. We received similar advice from our legal advisers.

²³ CLA Committee, 3 April 2017, RoP [30]

²⁴ CLA Committee, 3 April 2017, RoP [70]

03. General observations

Consolidation bill

31. We asked the Cabinet Secretary if he had considered introducing a free-standing consolidated bill rather than seeking to amend existing UK legislation. He replied:

“The complexities of this is ensuring that we have the right vehicle to deliver ending the right to buy and the right to acquire. We believe this process is substantial, and the issues around the Housing Acts of 1985 and 1996 have implications and, therefore, we believe that the approach we have taken in the laying of this Bill is proportionate.”²⁵

32. An accompanying Welsh Government official added:

“The legislation that sets out the right to buy at the moment is in the Housing Acts of 1985 and 1996, so to abolish it we would need to amend the England and Wales legislation.”²⁶

Balance between what is on the face of the Bill and what is left to subordinate legislation

33. We asked the Cabinet Secretary how he had decided what to put on the face of the Bill and what to leave to subordinate legislation. He told us:

“This Bill only has a very small amount of regulation powers in it, to facilitate the changes that we might need to make in the future. Again, it’s based upon other legislation that’s complementary to this in terms of the Housing Act or other elements of that, purely on a timing basis, and we might have to make a few slight modifications there. But we believe we’ve struck the right balance.”²⁷

Section 8 – Information for tenants and prospective tenants

34. The Explanatory Notes state that section 8 makes provision for information to be provided to tenants about the effect of this Bill:

“The Welsh Ministers must take all reasonable steps to provide every qualifying landlord with a copy of the information. In turn, qualifying landlords must provide all of their relevant tenants with a copy of the information, or with any of the information they consider to be relevant to their tenants.”²⁸

35. When asked why section 8 of the Bill only requires the Welsh Ministers to take all reasonable steps, rather than placing an absolute duty to supply information to all qualifying landlords, the Cabinet Secretary told us:

“There may be some landlords who are England-based and therefore operating with one or two tenancies in Wales that we’re not aware of. Therefore, what we

²⁵ CLA Committee, 3 April 2017, RoP [11]

²⁶ CLA Committee, 3 April 2017, RoP [13]

²⁷ CLA Committee, 3 April 2017, RoP [19]

²⁸ Explanatory Memorandum, Appendix 2: Explanatory Notes, paragraph 33

are seeking to do is have a little bit of wriggle room in order to capture as much as we possibly can. All the Welsh landlords operating in Wales—we've got them covered, but there may be some activity outside and, therefore, we think it's a reasonable ask to do that.”²⁹

36. The Cabinet Secretary continued:

“In terms of the absolute duty on landlords, we believe that's the direct relationship, so we haven't got a direct relationship with tenants—landlords do. Therefore, that's why the duty is an absolute duty on them and it is appropriate that they are held to inform their tenants of the actions we're implementing.”³⁰

Our view

37. We do not consider that the Cabinet Secretary has provided enough explanation as to why a consolidated Bill was considered not to be appropriate in this case.

Recommendation 1. We recommend that the Cabinet Secretary should fully explain during the Stage 1 debate his reasons for introducing a Bill that amends existing UK legislation rather than one that is consolidated and free-standing.

38. We are content with the balance between what is on the face of the Bill and what is left to subordinate legislation.

39. We welcome the requirement on the face of the Bill to prepare and publish a document containing information aimed at assisting tenants and prospective tenants in understanding the effects of the Bill.

40. We note that the Bill requires the Welsh Ministers to “take all reasonable steps” to provide every qualifying landlord with a copy of the information document. Given that the Welsh Government already holds details of all qualifying landlords in Wales, we see no reason for the duty on the Welsh Ministers in respect of those landlords to be qualified in any way.

Recommendation 2. We recommend that the Cabinet Secretary should table an amendment to the Bill to place an absolute duty on the Welsh Ministers to provide every qualifying landlord based in Wales with a copy of the information document set out in section 8.

Recommendation 3. We recommend that the existing qualified duty on the Welsh Ministers to provide every qualifying landlord with a copy of the information document (section 8(1)(c)) should only apply to landlords based outside of Wales, and that the Cabinet Secretary should table an amendment to the Bill to that effect.

²⁹ CLA Committee, 3 April 2017, RoP [42]

³⁰ CLA Committee, 3 April 2017, RoP [43]

04. Observations on specific powers to make subordinate legislation

Background

41. The Bill includes four powers permitting the Welsh Ministers to make subordinate legislation.³¹ The rationale for the use of these powers and for the Assembly procedure attached to them is contained in chapter 5 of the Explanatory Memorandum. The Welsh Government has also provided a document outlining the **policy intent for subordinate legislation** to be made under this Bill.

42. Of the four powers to make subordinate legislation:

- two are subject to the affirmative procedure;
- one is subject to the negative or affirmative procedure dependent on whether the regulations amend primary or secondary legislation; and
- one has no procedure – the power to make commencement orders.

43. Our scrutiny session focused on those powers of most interest to us and our consideration below considers the specific matters that we wish to draw to the attention of the National Assembly.

Section 9 – Consequential amendments etc.

Section 10 – Regulations

44. Section 9 of the Bill allows the Welsh Ministers to make any supplemental, incidental, consequential, transitory, transitional or saving provision.³² Section 10 provides for regulations made under this Bill to be made by statutory instrument. Regulations which amend primary legislation are subject to the affirmative procedure.³³ Other regulations will be made by the negative procedure because, according to the Explanatory Memorandum they are technical in nature.³⁴

45. The policy intent document states that regulation-making powers under section 9 will only be used for making changes to other legislation needed in consequence of the provisions of this Bill. It adds:

“The majority of consequential changes to primary legislation have been included on the face of the Bill. Consequential amendments to the Housing Act 1985 are to be made by secondary legislation to allow flexibility for the timing of such amendments, in light of the interaction between the implementation of this Bill and of the Renting Homes (Wales) Act 2016. A draft of the consequential amendments required to the Housing Act 1985 will be made available to the committee.”³⁵

46. The Explanatory Memorandum outlines the implications of the **Renting Homes (Wales) Act 2016** on the right to buy and right to acquire:

³¹ The powers to make Regulations and Orders under paragraph 6(8) of Schedule 1 are powers provided to the Secretary of State

³² Explanatory Memorandum, Appendix 2: Explanatory Notes, paragraph 35

³³ Explanatory Memorandum, Appendix 2: Explanatory Notes, paragraph 36

³⁴ Explanatory Memorandum, Chapter 5, pages 19-20

³⁵ Policy intent document, page 3

“The implication of the Renting Homes (Wales) Act 2016 on the Right to Buy and Right to Acquire has been reviewed because of the changes to tenancy agreements. The Renting Homes (Wales) Act 2016 will make it simpler and easier to rent a home, replacing various and complex pieces of existing legislation with one clear legal framework. The Act will not of itself alter the current arrangements in respect of the Right to Buy and Right to Acquire. It is concerned only with the rental agreement between the landlord and tenant (or contract-holder, in the terminology of the Act). The Right to Buy and Right to Acquire are entirely separate rights sitting alongside the rental agreement.”³⁶

47. When asked how the Regulations in section 9 are intended to be used, the Cabinet Secretary said:

“Section 9 is the power to make incidental, consequential provisions conferred by section 9 and is subject to the affirmative procedure, where consequential amendments are made to primary legislation, and negative in any other case...the power cannot be used to make regulations containing new or substantive provisions, but rather only making the necessary changes to ensure the provisions of the Bill work properly. The majority of the consequential amendments to the primary legislation are contained on the face of the Bill as well, so we’ve done a lot of work to make sure that we front-load this, as opposed to having to make consequential amendments later on.”³⁷

48. *The Renting Homes (Wales) Act 2016* received Royal Assent in January 2016, yet no consequential amendments have been made to date.

49. We asked the Cabinet Secretary to expand on why the Bill does not include consequential amendments to the *Housing Act 1985* and to clarify if the delay in making consequential amendments in previous legislation has had a direct impact on the ability to make consequential amendments on the face of this Bill. The Cabinet Secretary told us:

“I think, certainly, the Housing Act and the Renting Homes (Wales) Act 2016 are very complex in the introduction of the duties within them. There are lots of discussions between the Ministry of Justice, the Home Office, et cetera, in terms of the implementation of them, and the timeline is not fixed. We’re very conscious of that and the way that this Bill is running in tandem with the implementation of the Renting Homes (Wales) Act. That’s why the consequential power gives us the ability to make amendments, depending on where this Bill lands in terms of timing with the Renting Homes (Wales) Act as well. So, it’s an administrative issue, rather than a functional change.”³⁸

50. On 21 June 2017 in a **letter** to the Chair of the Equality, Local Government and Communities Committee, the Cabinet Secretary provided further information about the interactions between the *Renting Homes (Wales) Act 2016* and the Bill. He enclosed draft amendments to the Bill, saying:

³⁶ Explanatory Memorandum, paragraph 3.31

³⁷ CLA Committee, 3 April 2017, RoP [45]

³⁸ CLA Committee, 3 April 2017, RoP [47]

“It would not have been appropriate to include amendments on the face of this Bill, given the potential uncertainty of the precise nature of the legislation at the time that abolition is to take effect and therefore the exact amendments required. For illustrative purposes and to aid the Committee with scrutiny, we have prepared the draft amendments we anticipate will need to be made should the Bill receive Royal Assent before Renting Homes fully comes into force.”³⁹

51. When questioned about the justification for the breadth of power provided in the regulation-making powers prescribed in section 10(2) of the Bill, the Cabinet Secretary said:

“The regulation power is only attributed to section 9 of the Bill. It’s nowhere else, so it’s a very small amount of legislation that it applies to. So, while wide-ranging in text, actually contextually it’s only a small part that we’re able to amend. So, it’s all relative to section 9 of the Bill.”⁴⁰

52. A Welsh Government official added:

“...it’s set out in section 10(2), but the only regulation-making power in the Bill that it applies to is the consequential amendment power in section 9. So, it says ‘any regulations made under this Act’, but the only regulations that can be made under this Act are the consequential amendments in section 9.”⁴¹

Our view

53. We have some concern about the broad nature of the regulation-making powers prescribed in section 9 of the Bill. It has been our consistent view that the Welsh Ministers should adopt a more targeted approach rather than taking the widest powers available to them. Our particular concern in relation to section 9 is the use of the words “or expedient”; in our view the power to make “necessary” changes would be sufficient.

Recommendation 4. We recommend that the Cabinet Secretary should table an amendment to the Bill to delete the words “or expedient” from section 9.

54. Section 10(1) states that “any power to make regulations under this Act is exercisable by statutory instrument”. Section 10 only relates to the power to make regulations under section 9, because although sections 3 and 5 introduce regulation-making powers for the Welsh Ministers, they do so in relation to the *Housing Act 1985* and the *Housing Act 1996* respectively.

55. Accordingly, we recommend that section 10(1) is amended to reflect this position and avoid any possible ambiguity, given that the point raised in paragraph 54 may not be immediately clear to citizens who have not had legal training.

Recommendation 5. We recommend that the Cabinet Secretary should table an amendment to the Bill to make it clear that section 10(1) applies only to the regulation-making power in section 9.

³⁹ [Letter from the Cabinet Secretary for Communities and Children in relation to the Abolition of the Right to Buy and Associated Rights \(Wales\) Bill \(21 June 2017\)](#)

⁴⁰ CLA Committee, 3 April 2017, RoP [76]

⁴¹ CLA Committee, 3 April 2017, RoP [81]

56. We welcome section 10(4) of the Bill, which provides that where regulations amend primary legislation they will be made subject to the affirmative procedure.

57. In more general terms, we are concerned by the length of the delay in making consequential amendments to Acts passed by the National Assembly. We will keep this important issue under review.

Section 11 – Coming into force

58. Section 11 provides that section 8 (information for tenants), amongst others, will come into force on the day this Bill receives Royal Assent. This section also provides for sections 2 to 5 (which restrict tenants from exercising the right to buy, the preserved right to buy and the right to acquire unless the dwelling is from previously let social housing stock) to come into force two months after the Bill receives Royal Assent. Section 6 (which abolishes the right to buy, the preserved right to buy and the right to acquire, and makes relevant consequential amendments) and section 7 (which removes the Welsh Ministers’ power to make grants to reimburse voluntary discounts) are to be brought into force by Order, but they cannot be brought into force sooner than 12 months after the Bill receives Royal Assent.⁴²

59. When asked about the commencement period in the Bill, the Cabinet Secretary said:

“We believe the commencement period, in terms of the 12-month period of implementation following Royal Assent—we believe that is reasonable...the period of implementation doesn’t prohibit tenants who have the right to buy until the final day of implementation. So, you can still raise an interest, in that you don’t have to complete within the 12-month period. You can still apply within that 12-month period, even to the last day, to start the process. So, we think that’s a very reasonable amount of time.”⁴³

Our view

60. We are satisfied that section 6 of the Bill will not come into force until at least 12 months following Royal Assent by Order. We note the Cabinet Secretary’s explanation of why he deems this period of time to be appropriate.

61. We note that sections 1, 8, 9, 10 and 12 come into force on the day the Bill receives Royal Assent. Of those, only section 8, which deals with information for tenants and prospective tenants, is a substantive provision. By convention, and except in cases of particular need, arrangements will usually be made to ensure that primary legislation does not come into force less than two months after the date on which it is enacted. The purpose of the convention is to allow time for those persons affected by the legislation time to adapt. Section 8 however is designed to help those affected by the Bill by providing information to them on how their rights will be changed by the Bill and what they must do, should they decide to exercise those rights. We therefore welcome the fact that section 8 will come into force immediately following Royal Assent.

⁴² Explanatory Memorandum, Appendix 2: Explanatory Notes, paragraphs 37-39

⁴³ CLA Committee, 3 April 2017, RoP [62]