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Llywodraeth Cymru  
Welsh Government

# **ABOLITION OF THE RIGHT TO BUY AND ASSOCIATED RIGHTS (WALES) BILL**

Explanatory Memorandum  
incorporating the  
Regulatory Impact Assessment and  
Explanatory Notes

**November 2017**

# **Abolition of the Right to Buy and Associated Rights (Wales) Bill**

## **Explanatory Memorandum to the Abolition of the Right to Buy and Associated Rights (Wales) Bill**

This Explanatory Memorandum has been prepared by the Education and Public Services Group of the Welsh Government and is laid before the National Assembly for Wales.

It was originally prepared and laid in accordance with Standing Order 26.6 in March 2017, and a revised Memorandum is now laid in accordance with Standing Order 26.8.

### **Member's Declaration**

In my view, the provisions of the Abolition of the Right to Buy and Associated Rights (Wales) Bill, introduced by the then Minister for Communities and Children on 13 March 2017 would be within the legislative competence of the National Assembly for Wales.

Rebecca Evans AM

Minister for Housing and Regeneration  
Assembly Member in charge of the Bill

14 November 2017

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# 1. **Description**

- 1.1 The Abolition of the Right to Buy and Associated Rights (Wales) 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.

## 2. Legislative competence

2.1 The National Assembly for Wales 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 (the Act).

2.2 Subject 11 of Part 1 of Schedule 7 of the Act is as follows:

“Housing. Housing finance except schemes supported from central or local funds which provide assistance for social security purposes to or in respect of individuals by way of benefits. Encouragement of home energy efficiency and conservation, otherwise than by prohibition or regulation. Regulation of rent. Homelessness. Residential caravans and mobile homes”

2.3 This provides the National Assembly for Wales with the legislative competence to make the provisions contained in the Abolition of the Right to Buy and Associated Rights (Wales) Bill.

## 3. Purpose and intended effect of the Legislation

### Purpose

- 3.1 The Welsh Government is committed to doing all it can to help people meet their housing needs. Tackling poverty is one of the Welsh Government's overriding priorities. This 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.
- 3.2 Safeguarding Wales' social housing stock for people who are unable to acquire homes through the housing market by bringing forward a Bill to end the Right to Buy is one of the priorities in *Taking Wales Forward*. It is firmly aligned with the sustainable development principle of the Wellbeing of Future Generations (Wales) Act 2015. 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.
- 3.3 This explanatory memorandum is designed to convey information about the key elements of the Bill and its provisions.
- 3.4 Some parts of this explanatory memorandum may refer only to the term 'Right to Buy'. Unless otherwise stated, this should be taken to include the Right to Buy, the Preserved Right to Buy, the Extended Right to Buy and the Right to Acquire.

### Context

- 3.5 The Right to Buy provides tenants of social housing landlords who have secure or assured tenancies the opportunity to buy the freehold of their homes at a discount from the market price, subject to certain conditions and exceptions. Alternatively, if the landlord does not own the freehold or if the home is a flat, the tenant has the right to be granted a lease. In either case, the purchase price is discounted from the market price.
- 3.6 The Right to Acquire applies, subject to certain conditions, where a landlord is a registered social landlord or a private registered provider of social housing; the tenancy is an assured or secure tenancy and the dwelling has been provided with public money and has remained in the social rented sector.
- 3.7 The Preserved Right to Buy applies most commonly to local authority tenants whose homes have been transferred to a registered social landlord. The Extended Right to Buy extends the Right to Buy to a secure tenancy for which, in addition to the interest of the landlord, there are a number of different interests, including the interest of a local authority or other public authority.

- 3.8 The Right to Buy and Right to Acquire have been a feature of social housing for many years in Wales. They have resulted in the loss of a significant number of homes – more than 139,000 between 1981 and 2016 - from the social housing stock. In recent years, although sales of social housing have been relatively low, the social housing stock, which is a significant contributor to tackling poverty, is still being lost at a time of considerable housing supply pressure. This continued loss of stock impacts on the ability to assist people whose needs cannot be met by the housing market. Some concerns have also been expressed by local authorities, which are considering building new social homes. These concerns reflect the possibility that, with changing economic circumstances and the withdrawal from the Housing Revenue Account Subsidy system, new homes could be lost as a result of a sale under the Right to Buy well before the end of the economic life of the property. Local authorities believe this is a disincentive to investing in new homes.
- 3.9 Recognising the impact of Right to Buy and Right to Acquire and the continued pressure on social housing, the previous Welsh Government introduced the Housing (Wales) Measure 2011. This enables a local authority to apply to the Welsh Ministers to suspend the Right to Buy and the Right to Acquire in its area.
- 3.10 In the six years since the Measure received Royal Assent in May 2011, only six applications for suspension have been approved by September 2017 – Carmarthenshire, Swansea, Anglesey, Denbighshire, Flintshire and Cardiff. 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 help meet people’s housing needs, the Welsh Government has considered other options to protect Wales’ social housing stock.
- 3.11 Social housing is a vital component of the overall housing system, providing an essential option for people who are unable to acquire a home for purchase or rent in the private housing market. These include disadvantaged and vulnerable people; low income households and others who, for a variety of reasons, cannot afford to buy a home.
- 3.12 The intention behind the Bill is to protect the supply of social housing from further erosion in the face of a high level of demand and a supply shortage. The proposal is in line with evidence from the Joseph Rowntree Foundation, which is described in more detail below. The Bill reflects the positive use of social housing policy to tackle poverty. Safeguarding Wales’ social housing stock will help ensure as many people as possible have access to a home they can afford. A safe and affordable home provides an anchor for a stable family life and helps to prevent adverse childhood experiences. It helps to tackle worklessness; improves skills and reduces the number of young people who are not in education, employment or training. The standard of our social housing stock helps to ensure conditions that are conducive to children’s development, and contributes to increasing educational attainment. Good standards of accommodation are also a key health determinant and a factor in reducing health inequalities.

## Current position and evidence base

- 3.13 Social housing sales in Wales have reduced from their peak in the 1980s. Between 1 April 1981 and 31 March 2016, around 136,000 local authority and 3,100 housing association homes were sold to tenants under the Right to Buy and Right to Acquire schemes. This is equivalent to 45% of the social housing stock in 1981. At its peak in 2003-04, almost 7,000 homes were lost from the social housing stock in a single year. At 31 March 2015, social sector dwellings accounted for 16% of all dwellings compared with 19% in 2000-01.
- 3.14 More recently, economic factors, including tighter mortgage lending, have resulted in lower sales of social housing stock. In the five-year period March 2012 to March 2016, an average of 248 homes have been lost each year. In 2013-14, sales under the Right to Buy and Right to Acquire showed an increase for the first time since 2003-04 – 253 homes were purchased, up from 170 in 2012-13. This increase has continued with 286 statutory sales from the Right to Buy and Right to Acquire in 2014-15 and 359 in 2015-16.
- 3.15 The previous Welsh Government, with its partners, has undertaken a range of actions to increase the social housing stock. Between 2011-12 and 2015 -16, a total of 11,508 additional affordable housing units were built. This exceeds the 10,000<sup>1</sup> target set for the last government term by 15%. The current Welsh Government has a target of 20,000 more affordable homes this term. In addition, a total of 10,498 long-term empty homes were brought back into use between 2011 and 2016 compared to the target of 5,000<sup>2</sup>.
- 3.16 A report by the Joseph Rowntree Foundation<sup>3</sup> emphasises the importance of housing policy in tackling poverty due to the targeted nature of affordable and social housing. It considers social housing to be one of the most redistributive elements of the welfare state with its ability to tackle poverty by directing social housing to those most in need. Protecting the stock of social housing plays a major role in helping to tackle poverty.
- 3.17 According to the Joseph Rowntree Foundation, housing costs are the housing sector's most important element and have a direct impact on poverty. The number of people in "housing cost-induced poverty" – those who are not poor before housing costs are taken into account and are poor once housing costs are considered – has increased over the past two decades. Low rents, such as those for local authority and housing association homes, make an important contribution to reducing housing cost-induced poverty and material deprivation among social tenants. As social housing is highly-targeted towards people with low incomes, the Joseph Rowntree Foundation concludes it is the most "pro-poor" and redistributive aspect of the entire welfare state. It therefore recommends housing policy is used to reduce poverty and traditional social housing should be maintained and developed.
- 3.18 Providing secure, affordable homes is a key contributory factor in tackling poverty. The number of new affordable homes delivered by the previous Welsh Government (11,508) far exceeded the total number of social rented properties lost through statutory sales (1,239) during the term of government but the net increase in social housing stock was inevitably lower because of the sales.

- 3.19 The supply and demand pressures on market housing; intermediate and social housing and the failure of supply to keep pace with demand are well documented. Despite action to increase house building and social and intermediate homes in particular, there is a considerable supply deficit.
- 3.20 Housing supply can be addressed in a number of ways to give people choices. Private or market housing can be for sale or rent. The Welsh Government continues to help people to buy their own home. The Help to Buy Wales scheme, which was introduced to assist potential owner-occupiers with a government-supported deposit scheme, has been successful with 3,915 completions to the end of August 2016. A second phase of Help to Buy was announced in December 2015. The Welsh Government is investing up to £290m in the second phase.
- 3.21 There are a number of types of subsidised housing. This includes registered social landlords and local authority shared equity schemes. The Help to Buy scheme provides affordable homes to those who are able to purchase them. Intermediate rented housing is defined as homes which people can rent at sub-market rents. This is in addition to the more traditional social housing, owned by local authorities and housing associations, with lower rents. All these are options, which can help to take the pressure off the social housing sector.
- 3.22 From a public finance perspective, there is evidence to show where a property is sold at a discount under the Right to Buy, there are additional costs to the public purse. For example, Welsh Government research (see paragraph 6.44) undertaken in 2015 estimates that across eight local authorities, around 12.5% of properties sold under the Right to Buy and Right to Acquire since 1997 have transferred into the private rented sector and the occupants were in receipt of housing benefit over the five years from 2010-11 to 2014-15. Extrapolating the modelling of this information to an all-Wales level suggests the extra cost to the public purse – for example in housing benefit, could be in the region of £4.4m each year compared with the cost if those properties had remained in the social housing sector. This all-Wales estimate should be treated with some caution as it based on the assumption that the average scale of transfer seen in the eight authorities would be reflected across all others. However, the findings are consistent with those of research in Scotland, which is mentioned later in this document.
- 3.23 The scrutiny of proposals in the UK Government's Housing and Planning Bill (now the Housing and Planning Act 2016) by the House of Commons' Communities and Local Government Committee provides similar and supportive findings<sup>4</sup> about the significant number of properties sold under the Right to Buy which are now in the private rented sector. Evidence to the committee shows almost 40% of ex-council flats sold through the statutory Right to Buy scheme in England are now in the private rented sector.
- 3.24 In summarising the intention of the UK Government's plans to address the housing shortage by means of prioritising affordable home ownership, the committee concluded that rented housing at full market rents and sub-market rents will continue to be essential to meet the needs of many in our society and should exist alongside other forms of housing. The importance of delivering homes which are truly affordable was emphasised in its report, concluding that

while home ownership is the aspiration of many, homes for affordable rent must still be provided for those who cannot afford to, or do not want to, buy a home.

## **Intended effect**

- 3.25 There are a number of means of addressing the housing supply deficit, including building more homes and reducing the number of long-term empty properties, through schemes including Help to Buy and Houses into Homes. The approach to supply-side activity, which is the foundation for this Bill, is to prevent the further loss of homes from the current social housing stock. This Bill seeks to implement the only action which will ensure the full protection of the social housing stock in its entirety through the abolition of the Right to Buy and associated rights (Section 6). The Bill also removes Welsh Ministers' power to make grants to reimburse registered social landlords in respect of homes sold at a discount, but not under the right to acquire regime (Section 7) and provides that tenants and prospective tenants are informed of the effect of the Bill's provisions (Section 8). It will also help to increase the supply by encouraging further investment in new social housing safe in the knowledge it will be available for the long-term to help meet people's housing needs by abolishing the rights on newly let housing 2 months following Royal Assent in terms of the Right to Buy (Sections 2 and 3) and the Right to Acquire (Sections 4 and 5).
- 3.26 The suspension of the Right to Buy in some areas of Wales but not in others means tenants in some areas will have different rights to those in neighbouring areas. As housing pressures continue, the provisions in the Bill will ensure there is a consistent approach for social housing tenants in all areas of Wales. The abolition of the Right to Buy would, for some tenants, mean the loss of the ability to own the freehold of their current homes (while not precluding use of other Welsh Government schemes to purchase elsewhere). This must, however, be balanced by consideration of the needs of the many who are on waiting lists for a home they can afford to rent. Social housing plays a vital role in ensuring people who are unable to take advantage of the housing market can have a secure and affordable home.
- 3.27 The impact of the Right to Buy is medium to long term. It reduces the number of social rented homes available for allocation to people from housing waiting lists. When these homes are let, they are occupied and are therefore not available for reallocation until the sitting tenant (or successor) vacates the property. Although social housing which is bought by tenants becomes a part of the private market, they will, in the main, never again be available for reallocation as social housing to people whose needs cannot be met by the market. Therefore, the full impact of the past large-scale loss of social housing is being experienced now, with significantly less housing stock being available to reallocate to people who need help with their housing costs.
- 3.28 The Housing White Paper<sup>5</sup> affirmed the Welsh Government's firm commitment to providing social housing to help those whose housing needs cannot be met by the market. Abolishing the Housing Revenue Account Subsidy system – achieved as a result of the Housing (Wales) Act 2014 – offers the prospect of a council house building programme in Wales again. However, there is some concern among local authorities about building new homes only to lose them through the Right to Buy within a relatively short period.

## **Assisting home ownership**

3.29 The Welsh Government has a range of provisions in place to assist home ownership and schemes to support low-cost home ownership.

3.30 The Welsh Government is working with partners to deliver 20,000 affordable homes across a wide range of schemes and tenures to help individuals access the right housing for them without impacting on the social housing stock:

- Help to Buy – Wales is now firmly established with a £290 million investment in the second phase to support the construction of over 6,000 new homes by 2021.
- Rent to Own is a scheme currently being developed to offer a route to home ownership for those that are able to meet the monthly payment, but may not have a deposit saved.
- Homebuy is a shared equity scheme helping people to purchase existing properties with a loan of 30-50% who would not otherwise be able to do so. This can be particularly beneficial in rural areas where fewer new properties are available.
- Earlier this year the Welsh Government announced a new programme that extends innovation into housing design and delivery – the Housing Models Programme – with an initial £20 million investment, embracing new construction methods and materials particularly where quality can be improved and build costs reduced substantially.
- The Welsh Government recently announced an additional £30m for the Wales Property Development Fund to support existing SME developers to build homes. This quadruples the initial investment and it is expected to provide over £270m in support for the sector over the next 15 years.

## **Implication of the Renting Homes (Wales) Act 2016**

3.31 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.

## **Notice period before abolition**

3.32 It is intended that the Right to Buy and the Right to Acquire will continue to be exercisable in respect of existing social housing stock for a minimum period of one year before abolition. However, it is intended that these rights will end in respect of new social housing stock – referred to in this document as newly-let dwellings – two months after the Bill receives Royal Assent. The provision in respect of newly-let dwellings responds to the policy justification behind the proposals to encourage social landlords to build new housing stock without fear of losing their investment before the end of its economic life. Potential tenants offered the opportunity to move to a newly-let dwelling will be made aware the Right to Buy will not apply to the dwelling and will have to decide whether or not they wish to take up the tenancy on that basis. The minimum one-year notification period before abolition will allow tenants to take financial advice, organise their funds, and allow for most circumstances to be resolved (for example, a period of ill health). A one-year period also enables people to carefully consider whether to exercise the Right to Buy and take on the responsibilities of home ownership, which includes maintaining the property.

## **Human rights**

3.33 The abolition of the Right to Buy potentially engages the European Convention on Human Rights. 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.

## **Research**

3.34 With the co-operation of local authorities, a research study was undertaken to consider the influence of the Right to Buy, Right to Acquire and Preserved Right to Buy on social housing development in their areas. The study was undertaken between July and October 2015. The responses from local authorities indicated that historically, because of other factors, the Right to Buy has not been the primary influence in considerations about new-build development. It was apparent a number of other factors were more influential – the Housing Revenue Account Subsidy System (now ended); investment to attain the Welsh Housing Quality Standard and the reduced level of subsidy support were specifically cited.

3.35 More recently, changes in factors which have in the past influenced development plans – for example, the impact of the recession, the availability of finance, and construction levels - mean that the continuation of the Right to Buy and Right to Acquire will become an increasingly important factor in development decisions when local authorities and their housing partners are considering increasing their social housing stock.

- 3.36 In light of this, it is felt there will be a positive impact from the protection of newly-let dwellings immediately and the safeguarding of further losses from the social housing stock following implementation of the Bill's proposals. The identified need for social housing units in the next five years for the 17 local authorities which responded to the research indicated more than 18,000 social housing units and a further 11,000 affordable homes would be required. These figures clearly indicate housing need will continue to outstrip development at current rates.
- 3.37 The estimates from the research study compare to the findings of the Public Policy Institute for Wales report *Future Need and Demand for Housing in Wales*, published in September 2015<sup>6</sup>, which found that for the period 2011-31, an additional 174,000 homes would be needed. That principal projection would equate to 8,700 per year, of which 5,200 (60%) would be needed in the private market sector and 3,500 (40%) a year in the social sector<sup>(1)</sup>, amounting to an additional 70,000 social rented homes over the 20 year period.
- 3.38 Compared to the development proposals for the 17 local authorities which participated in the study, the research exercise suggests increasing supply pressures with planned development for just over 4,000 homes in the next five years.
- 3.39 While there are some caveats to any research, these estimated demand and supply figures nevertheless provide a good indication of the widening gap between the identified level of need for social/affordable housing and its planned supply. Overall, the supply of new affordable housing is lagging behind demand, which results in housing supply pressures across Wales. This supports the policy intention and legislative proposal to abolish the Right to Buy in order to help to protect the social housing stock from further erosion.

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<sup>(1)</sup> PPIW define 'social housing' as 'housing rented from a local authority or Housing Association and rented from a private landlord with Housing Benefit.'

## 4. Consultation

- 4.1 The Welsh Government has consulted widely on the future of the Right to Buy and Right to Acquire. This included short-term action to reduce the maximum discount to £8,000 and a proposal to abolish the Right to Buy and associated rights. There has been extensive engagement with stakeholders during the development of the policy and legislation, including workshops and events to test the implications of abolition through discussions. Participants included social landlords, the Welsh Tenants' Federation, the Tenant Participation Advisory Service, Shelter Cymru and young people. Given the policy intention is to end the Right to Buy, the Bill is relatively short and straightforward. The precise provisions by which the rights will be abolished have been informed by consultation and engagement, and will be open to full scrutiny during its passage through the National Assembly for Wales. As the Bill, as introduced, reflects responses and feedback from stakeholders to the 2015 White Paper on the future of the Right To Buy and Right To Acquire , LINK HERE: <https://consultations.gov.wales/sites/default/files/consultation-documents/150603-right-to-buy-consultation-summary-of-responses-en.pdf> an additional consultation on a draft of the actual Bill itself was not considered to be necessary.
- 4.2 Three formal consultation exercises have been undertaken in relation to proposals to suspend or amend the Right to Buy. Public consultation exercises were carried out in 2008 as part of the development of the Housing (Wales) Measure 2011 and, also in 2011, about the guidance to local authorities when applying to Welsh Ministers to suspend the Right to Buy. Respondents agreed with the proposals in both cases – for local authorities to be able to suspend the Right to Buy in their areas and that five years was a reasonable period for suspension, with a further extension to 10 years available. The feedback from the consultation in 2011 indicated respondents' agreement to the proposed process for applying for suspension and the indicators of housing pressure were considered to be appropriate.
- The summary and analysis report of the 2008 consultation to suspend the Right to Buy and associated rights can be accessed here:  
<http://webarchive.nationalarchives.gov.uk/20091210054014/http://wales.gov.uk/consultations/housingcommunity/suspendrighttobuy/?lang=en&status=closed>
- The consultation and summary report of the consultation introduction of the 2011 Measure can be accessed here:  
<http://webarchive.nationalarchives.gov.uk/20091210054014/http://wales.gov.uk/consultations/housingcommunity/suspendrighttobuy/?lang=en&status=closed>
- 4.3 During the previous Welsh Government term, further action to protect the social housing stock was proposed. A White Paper setting out proposals about the future of Right to Buy and Right to Acquire<sup>7</sup> was published in January 2015. It contained two proposals Firstly, in the short term, action to reduce the maximum discount to £8,000; and secondly, the development of legislation to end the Right to Buy, which would be taken forward in the Fifth Assembly. The consultation closed on 16 April 2015.
- 4.4 There were 94 responses to the White Paper<sup>8</sup>. The profile of the respondents was as follows:

**Table 1: Respondents to the Public Consultation on the future of the Right to Buy and Right to Acquire, by type, April 2015**

<b>Broad Type of Respondent</b>	<b>Number of Responses</b>
Social Tenant	30
Registered Social Landlord	21
Local Authority	9
National Housing Organisations/ Representative Bodies	9
Owner Occupier	8
Professional Housing Bodies/Local Representative Organisations (including estate agents, tenants groups etc.)	5
Not Specified	12
<b>Total</b>	<b>94</b>

- 4.5 More than nine out of ten respondents who answered the question (94%) believed the Welsh Government should take more action to help people whose needs cannot be met by the housing market. Three out of four (75%) felt the Welsh Government should do more to protect the social housing stock from further reduction.
- 4.6 Overall, respondents supported the proposal to reduce the maximum sales discount and the proposal to develop legislation to end the Right to Buy and Right to Acquire.
- 4.7 The proposal to end the Right to Buy and Right to Acquire was supported by 52 (63%) of the 83 respondents who clearly indicated their views. Another six gave qualified support to the proposal. The other five respondents either did not answer this question or answered in a way in which their views were unclear or contradictory.
- 4.8 The consultation attracted responses from a wide variety of individuals and organisations. This included local authorities, registered social landlords and representative bodies working in the field of housing. Respondents from individual members of the public included social housing tenants and owner occupiers. The summary report about responses to the consultation is available at the web address in endnote<sup>9</sup>.

### **Stakeholder workshops**

- 4.9 In addition to the formal consultation on the White Paper, four discussion sessions were held between September 2015 and February 2016 with stakeholders to obtain their views as part of the process to develop the Bill.
- 4.10 The sessions were intended to obtain stakeholders' views as part of the process of developing the Bill with representatives invited to comment on the planned contents of the Bill and matters relating to its implementation should it be introduced following the 2016 National Assembly elections. Participants

included local authorities, registered social landlords, third sector organisations and representatives of organisations representing tenants, minority groups and young people.

- 4.11 Following a presentation to Community Housing Cymru's Leaseholder Network, in September 2015, involving some 20 representatives of registered social landlords, attendees expressed the view the Right to Buy and Right to Acquire could reasonably be abolished six months after Royal Assent – two months to learn about abolition; two months to discuss whether to apply and two months to obtain a mortgage and submit a formal application. It also emerged many leasehold properties which had been sold under the Right to Buy and Right to Acquire are now in the private rented sector. This makes it potentially more difficult for landlords to contact leaseholders, for example, in the event of repairs being required to blocks of leasehold flats. The relatively high turnover of tenants in private rented sector leasehold flats is an added complication for registered social landlords.
- 4.12 A workshop was conducted in December 2015 with key housing stakeholders. There was universal support for the proposal to develop legislation to abolish the Right to Buy and Right to Acquire in order to preserve the social housing stock for rent by people in housing need.
- 4.13 Drawing on the experience of Swansea Council's consultation for its application to suspend the Right to Buy, views on Right to Buy and Right to Acquire can vary. For example, there was a 50/50 split for and against suspension among tenants.
- 4.14 There was a widely-held view that social housing provides an investment for future generations and not just a home for the lifetime of the tenant. There was evidence that home ownership can be detrimental in some cases where tenants purchasing under the Right to Buy and Right to Acquire had taken on commitments beyond their financial means. Housing association stakeholders and umbrella bodies said there were instances of home owners in Right to Buy and Right to Acquire properties who had to seek help from the Welsh Government's mortgage rescue scheme and of social landlords repurchasing properties via mortgage rescue.
- 4.15 The continuation of the Right to Buy was seen as detrimental to local authorities' long-term plans and new building development programmes. Withdrawal from the housing revenue account subsidy system was seen as being conducive to and providing a potential boost to new housing development.
- 4.16 The financial implications of abolition were considered to vary between local authorities. Generally, delegates expressed a preference for the long-term rental income rather than a one-off capital receipt they would receive when a property was sold under the Right to Buy.
- 4.17 In respect of an appropriate notification period between Royal Assent and commencement, the majority of stakeholders at the workshop believed there should be a minimum period of one year.

- 4.18 There was general agreement to a period of two months after Royal Assent to abolish the Right to Buy on newly-let housing, although there might be some concerns about people moving for accessibility or disability reasons. The issue of suitably-adapted homes and protected characteristics requires particular consideration, including the potential need for exemptions.
- 4.19 The workshop considered whether it would be appropriate to provide a window of opportunity to enable tenants, whose Right to Buy or Right to Acquire had been suspended, to purchase their homes before abolition took place. Opinion was divided but the majority saw this as undermining the case already established for suspending the rights in a number of local authority areas due to housing pressures.
- 4.20 A workshop in February 2016, attended by representatives from the Welsh Tenants' Federation, the Tenant Participation Advisory Service and Shelter Cymru, considered that timely and effective communications were required to inform tenants as soon as practicable about changes to the Right to Buy and Right to Acquire (should the Bill becomes law).
- 4.21 Stakeholders also raised concerns about some properties being knocked down by social landlords and their voluntary sale of properties. It was acknowledged that in some cases after an options appraisal, there may be a need to dispose of unsuitable properties, and in some cases for properties to be demolished where they did not meet housing need, such as older people's bedsits. Those attending thought ending the Right to Buy on newly-let housing two months after Royal Assent would be appropriate and would encourage social landlords to develop new housing. The tenants' representative groups recognised the desire of many tenants to own their own homes and that many tenants like to have the option of being able to make use of the rights but also the need for people without a home to be adequately housed. Consequently, there was broad support for the Welsh Government's proposal to abolish the Right to Buy and Right to Acquire in order to maintain the social housing stock. There was also broad support for earlier abolition for newly-let properties in order to encourage social landlords to build new stock which could not be sold under the Right to Buy and Right to Acquire.
- 4.22 A final workshop was designed specifically to capture the views and comments of young people. The long-term nature and potential benefits of the proposals contained in the Bill will affect them. The event involved 12 young people, aged 16 to 25, and was organised with the help of Children in Wales. A wide range of opinions were provided by attendees, including that aspirations for home ownership should be met from the private housing market. Although the Bill proposals were not regarded as influencing people's aspiration to home ownership, the policy direction was felt to be appropriate to deal with the current housing situation and housing pressures. Abolition was seen as a positive step to help deal with the deficit of social housing.
- 4.23 There was general support for safeguarding the social housing stock for people who cannot afford to purchase or rent privately. Young people considered that investment in Wales' social housing stock should be used to provide permanent housing for rent rather than for acquisition at a discount by individuals. There was unanimous support for the proposal to legislate to abolish the Right to Buy and Right to Acquire on all homes after a reasonable

time following the Bill's Royal Assent, with earlier abolition for new homes. Ten of the 12 delegates considered one year's notice between Royal Assent and final abolition to be adequate. For new supply housing, unanimous support was given to ending the rights immediately. For those tenants in the local authority areas where suspension of the Right to Buy is currently in place, eight of the 12 participants felt the opportunity should be given to people to purchase before final abolition took place. The participants also considered that, if the Bill is introduced and approved by the National Assembly, the widest range of communications methods should be used to inform people of the timescale for abolition, including letters to each tenant; newsletters; websites and social media. They also suggested using a format and style of communications which is targeted at young people.

## 5. Power to make subordinate legislation

5.1 The Bill contains provisions to make subordinate legislation. The table on the following pages sets, in relation to each provision in the Bill:

- (i) The person upon whom, or the body upon which, the power is conferred;
- (ii) The form in which the power is to be exercised;
- (iii) The appropriateness of the delegated power; and
- (iv) The applied procedure – whether it is affirmative; negative or no procedure – and the reasons why it is considered appropriate.

5.2 The Welsh Government will consult on the content of the subordinate legislation where it is considered appropriate to do so. The precise nature of consultation will be decided when the proposals have been formalised.

**Table 2 – Summary of powers to make subordinate legislation for provisions in the Bill.**

Section or Schedule:	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 3(2)  Inserts section 121ZB(4) into the Housing Act 1985.	Welsh Ministers	Regulations	Provides the Welsh Ministers with the flexibility to amend the exceptions to the restriction of the Right to Buy and Preserved Right to Buy.	Affirmative	Power enables the amendment of primary legislation.
Section 5(2)  Inserts section 16C(2) into the Housing Act 1996.	Welsh Ministers	Regulations	Provides the Welsh Ministers with the flexibility to amend the exceptions to the restriction of the Right to Acquire.	Affirmative	Power enables the amendment of primary legislation.

<b>Section or Schedule:</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Section 9	Welsh Ministers	Regulations	Allows the Welsh Ministers to make any supplemental, incidental, consequential, transitory, transitional or saving provision.	Negative unless making changes to primary legislation in which case, affirmative.	Affirmative procedure is appropriate where regulations amend primary legislation. Negative procedure is appropriate for those regulations which make technical provisions.
Section 11(3)	Welsh Ministers	Order	Allows the Welsh Ministers to appoint by order made by a statutory instrument the coming into force date of provisions in the Bill.	No procedure	These orders relate to commencement of provisions considered and passed by the Assembly.
Paragraph 6(8) of Schedule 1  Inserts section 184 into the Housing and Regeneration Act 2008. Section 184(1) and 184(2)(b) contain the relevant subordinate legislation powers	Secretary of State	Order and Regulations	Section 184 of the Housing and Regeneration Act 2008 currently applies section 17 of the Housing Act 1996 to the right to acquire in England, with modification.  Section 17 of the 1996 Act is being repealed by the Bill, therefore, therefore, this consequential amendment restates the provisions of section 17 as modified by section 184 of the 2008 Act so that the application in England is unchanged.	Negative	This is the existing procedure by virtue of section 320(7)(a) and (d) of the Housing and Regeneration Act 2008.

## Part 2 – Regulatory Impact Assessment

### SUMMARY – REGULATORY IMPACT ASSESSMENT

<b>ABOLITION OF THE RIGHT TO BUY AND ASSOCIATED RIGHTS (WALES) BILL</b>		
<b>Preferred option:</b> Abolish the Right to Buy and Right to Acquire a year after Royal Assent and abolish the Right to Buy and Right to Acquire on newly-let social housing two months after Royal Assent (pages 53-58)		
<b>Stage:</b> Amendments	<b>Appraisal period:</b> 2017-18 to 2026-27	<b>Price base year:</b> 2016-17
<b>Total Cost</b> Total: £342,000 Present value: £327,800	<b>Total Benefits</b> Total: £0 Present value: £0	<b>Net Present Value (NPV):</b> £-327,800

#### Administrative cost

<b>Costs:</b> There will be a cost to the Welsh Government to inform local authorities and registered social landlords of the change in legislation and also to produce guidance to explain the policy change to tenants and to establish the final deadline for tenants to apply to exercise their Right to Buy. The additional cost to the Welsh Government is in the form of staff resource, which would be dedicated to the action. The cost is estimated to be £42,000 in 2017-18 and £15,000 in 2018-19.			
Local authorities and registered social landlords will need to inform tenants the Right to Buy scheme is being abolished in Wales. The cost of this is estimated to be £190,000 in 2017-18 and £95,000 in 2018-19.			
<b>Transitional:</b> £342,000	<b>Recurrent:</b> £0	<b>Total:</b> £342,000	<b>PV:</b> £327,800
<b>Cost-savings:</b> Local authorities and registered social landlords will no longer have to administer Right to Buy and Right to Acquire applications – these cost-savings (estimated to be between £300 and £900 per property) have been included in modelling looking at the impact of the proposed changes on local authority and registered social landlord's finances (see other costs).			
<b>Transitional:</b> £0	<b>Recurrent:</b> £0	<b>Total:</b> £0	<b>PV:</b> £0
<b>Net administrative cost: £342,000</b>			

## Compliance costs

There are no compliance costs associated with the preferred option.

**Transitional: £0**

**Recurrent: £0**

**Total: £0**

**PV: £0**

## Other costs

Modelling work has been undertaken to provide an indication of the impact of abolishing the Right to Buy and Right to Acquire on local authority and registered social landlords' finances. The modelling considered changes in rental flows, capital receipts from the sale of property, maintenance and management costs and administrative costs in a number of different scenarios. The modelling suggests the impact of the preferred option on local authority and registered social landlord finances will be between -£69.1m to +£54.9m (relative to the baseline).

The modelling also suggests that there will be an additional cost to Welsh Government of £16,000 - £40,000 in 2017-18 and up to £8,000 in 2018-19. This is for reimbursement payments made to registered social landlords for the discounts on properties sold under the Right to Acquire.

**Due to the number of variables and assumptions used and the level of uncertainty in the modelling, these financial impacts have not been included in the headline figures shown in this Summary sheet.**

**Transitional: £0**

**Recurrent: £0**

**Total: £0**

**PV: £-69.1m to +  
£54.9m**

## Unquantified costs and disbenefits

Where social tenants are either ineligible or unable to exercise the Right to Buy in relation to their home before the end of the one-year notice period, they would lose that right under the proposed policy.

Abolishing the Right to Buy in Wales could potentially have an impact on the wider housing market if social sector tenants who are keen to pursue home ownership and financially able to purchase a property decided to look to the private housing sector. This impact has not been quantified and is therefore unknown. However, given that Right to Buy and Right to Acquire sales represent a relatively small proportion of total residential property transactions in Wales each year, any impact would be expected to be small.

## Benefits

The main benefits are as follows:

- Abolishing the Right to Buy and Right to Acquire will help to prevent any further losses of social housing stock, so contributing to the overall supply of affordable homes. It is estimated the preferred option will result in between 1,370 and 1,465 properties being retained in the social housing sector (compared to the baseline).
- The one-year notice period is intended to ensure those tenants who are eligible or who are almost eligible to buy their home have sufficient time to make the necessary financial arrangements to do so.
- The policy will also encourage social landlords to invest in new properties, safe in the knowledge that properties will not be lost at some point in the future due to the Right to Buy after a short period of time.

**Total: £0**

**PV: £0**

## Key evidence, assumptions and uncertainties

The modelling work described above makes a number of assumptions around the number of future Right to Buy and Right to Acquire sales, voluntary suspensions, the potential spike in sales during the one year notice period, changes in property prices and rents and landlord costs. These assumptions are outlined in the text.

Sensitivity analysis has been undertaken testing the impact of changing the key assumptions; this is presented in appendix 1.

## 6. Options, Costs and Benefits

- 6.1 This chapter sets out the options considered in the development of this Bill. It describes each option in turn, estimating the transitional costs associated with informing social landlords and tenants about the changes in policy. In addition, modelling work has been undertaken to provide an estimate of the financial impact on local authorities and registered social landlords (under different scenarios) of restricting Right to Buy and Right to Acquire sales. The uncertainties about trying to model future Right to Buy and Right to Acquire sales means these costs are considered separately to the transitional costs. The benefits associated with each option are considered. There are no specific provisions in the Bill which will charge expenditure on the Welsh Consolidated Fund.
- 6.2 The modelling in the RIA has been updated at the end of Stage 2 to reflect the latest statistics on social sector property sales in 2016-17, the average market value of those properties and the average discount provided under Right to Buy and Right to Acquire. This data was published in July 2017. The modelling also now incorporates 2015-16 data (the latest available) on Local Authority and Registered Social Landlords' repair and maintenance costs and management costs. Finally, the RIA has been revised to reflect the 3 additional voluntary suspensions (Flintshire, Denbighshire and Cardiff) which have been agreed since the Bill was introduced in the Assembly.
- 6.3 The assessment of costs and benefits is centred on the 10-year period 2017-18 to 2026-27. If passed the Bill is expected to receive Royal Assent at the beginning of 2018 and, consequently, it will be during 2017-18 that the Welsh Government and social landlords will begin to incur costs in communicating the change in the law to social housing tenants. The period has been extended to cover the remaining economic life of the assets in question – residential properties. For buildings, the useful economic life is taken to be the period before significant remedial work is required to the structure of the property. For new property, this is generally assumed to be 60 years. However, as the useful economic life of existing property will vary, periods of 30, 40 and 50 years have been considered.
- 6.4 The HM Treasury central discount rate of 3.5% <sup>(2)</sup> has been used throughout this analysis. The price base year is 2016-17 with historic costs uprated to 2016-17 prices using the GDP deflator series. The timing of expenditure occurred uses 2017-18 as year one. If the Bill is introduced and does not receive Royal Assent before April 2018, the timescale for implementation and also expenditure and costs will slip back accordingly.
- 6.5 The financial assessment undertaken is considered to be proportionate to the likely scale of impacts. However, it should not be regarded as a full economic appraisal since it does not include an assessment of changes to capital charges for the capital tied up in the social housing stock or the residual value of the property (and land) at the end of the appraisal period.

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<sup>(2)</sup> Declining to 3.0% after 30 years.

## Options

6.6 Five options have been considered as part of this assessment, these are:

- i. Option 1: No change – maintain the current legislative regime concerning the Right to Buy and Right to Acquire;
- ii. Option 2: Abolish the Right to Buy and Right to Acquire on newly-let social housing (only) two months after Royal Assent;
- iii. Option 3: Abolish the Right to Buy and Right to Acquire on all social housing two months after Royal Assent;
- iv. Option 4: Abolish the Right to Buy and Right to Acquire on all social housing one year after Royal Assent;
- v. Option 5: Abolish the Right to Buy and Right to Acquire after one year (as with option 4) but in addition, abolish the Right to Buy and Right to Acquire on newly-let social housing from two months after Royal Assent.

Option v. is the preferred choice as it provides the optimal security for the social housing stock and best achieves the policy intention of protecting the existing stock from further reduction. In providing a reasonable notice period of the change, eligible tenants who wish to exercise their Right to Buy will have reasonable time to do so. Moreover it will remove any deterrent to building new social housing by ending the Right to Buy and associated rights on newly-let properties as soon as practicable after Royal Assent.

## Background

6.7 The broad background to the Right to Buy and its impact on social housing supply and the ability of the housing system in Wales to meet the needs of people who are unable to take advantage of housing markets is set out in detail in chapter 3. The following provides further background information relevant to the economics of Right to Buy sales.

6.8 Evidence presented by the Centre for Housing Policy, University of York to the National Assembly for Wales' Proposed Affordable Housing Legislative Competence Order Committee<sup>10</sup> suggested it would be more cost-effective for the government to allow Right to Buy sales to continue but to ensure the resulting receipts are used for the purchase or construction of replacement low-cost dwellings. The explanation given for this is that each property sold under the Right to Buy would continue to be occupied by the existing household for an average of 15 years and would continue to contribute to meeting local housing needs. In addition, for each three properties sold under the Right to Buy the local authority or registered social landlord would be able to construct a further two affordable homes.

- 6.9 A similar view has been put forward by the Institute of Fiscal Studies<sup>11</sup>, which considered the societal welfare impacts of the Right to Buy scheme and concluded that, to maximise welfare, the receipts from Right to Buy sales should be ring-fenced and invested in new affordable social housing. The underlying argument is that it is the overall availability of affordable housing that matters to people on low incomes rather than whether that affordable housing is in the private or social sector.
- 6.10 The argument for retaining the Right to Buy and Right to Acquire but ensuring the receipts from sales is directed towards the construction or replacement of social housing was considered. However, as set out earlier in this document and examined in option 1, without intervention by government, the future sales of properties to tenants would continue to reduce the stock of social housing in areas where no suspension exists. Furthermore, the argument for using receipts from Right to Buy discounted sales to build more social housing is undermined by the fact the finances mean they only allow the building of a lower number of replacement dwellings due to the cost of replacement social homes being higher than the value of sales. The net impact would therefore be a continued reduction in the social housing stock.

## **Option 1: No change – maintain the current legislative regime concerning the Right to Buy and Right to Acquire**

### **Description**

- 6.11 This is the no change or baseline option, within which it is assumed the Right to Buy and Right to Acquire schemes continue as at present. Local authorities will continue to have the option to apply to the Welsh Ministers under the Housing (Wales) Measure 2011 to suspend the rights in their area for a period of time. The initial period is five years but can be extended for a further five years. By September 2017, six local authorities (Swansea, Carmarthenshire, Anglesey, Flintshire, Denbighshire and Cardiff)<sup>(3)</sup> have had their application to suspend the Right to Buy and Right to Acquire approved by the Welsh Ministers. While other areas may yet opt to follow suit, it is assumed the Right to Buy and Right to Acquire will be maintained in the majority of areas under this option.

### **Costs**

- 6.12 This is the baseline option and as such, there are no additional costs or benefits associated with it. However, in order to fully understand the costs and benefits associated with ending the Right to Buy and Right to Acquire, it is necessary to consider what is likely to happen if they continue.
- 6.13 Chart 1 shows the number of Right to Buy and Right to Acquire sales completed in Wales since the legislation was first introduced by the UK Government in the 1980 Housing Act. In total, almost 140,000 sales have been completed, the majority of which took place in the 10 years immediately after the scheme was introduced.

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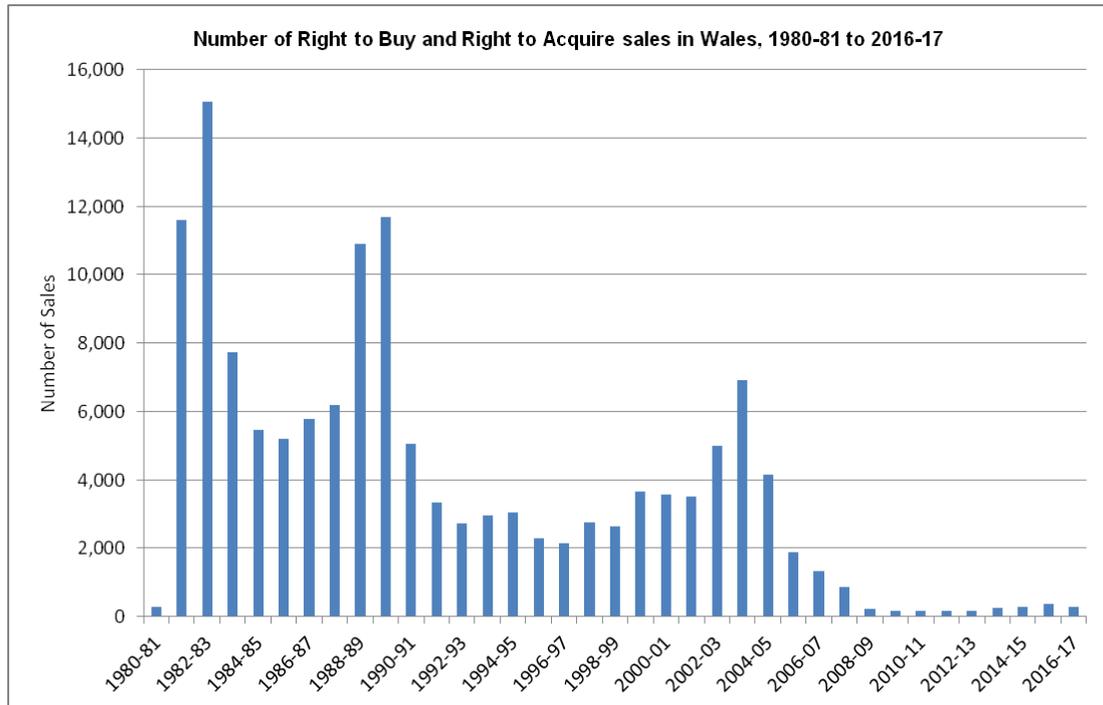
<sup>(3)</sup> The agreed suspensions are due to end between 2020-21 and 2022-23 but could be extended for a further five year period.

- 6.14 More recently, the chart shows a spike in the number of sales. In 2003-04, more tenants applied to buy their property, which can be attributed to the point at which the maximum discount available for the purchase of the property was reduced from £24,000 to £16,000. Since 2003-04, there has been a sharp decline in the number of sales. In the last five years, the average number of sales each year has been 268. When sales in Swansea, Carmarthenshire, Anglesey, Flintshire, Denbighshire and Cardiff are excluded from the calculation, this figure drops to approximately 185 sales per annum<sup>(4)</sup>. This reduced level of sales can be attributed to a number of factors, including the reduction in 2003 in the maximum discount available from £24,000 to £16,000 and the global economic slowdown, which has impacted on the housing market and the availability of mortgage credit. In addition, it has been suggested better-quality properties and those in more desirable locations were the first to be purchased under the scheme. There were 274 sales in 2016-17, a decrease of 85 (24%) on the previous year. It seems likely sales in 2015-16 were inflated by tenants applying to purchase their home before the maximum discount available declined in July 2015.
- 6.15 The majority of the sales have been under the Right to Buy or Preserved Right to Buy. The Right to Acquire arises under section 16 of the Housing Act 1996. Between 1998-99 and 2016-17, 203 properties were sold under the Right to Acquire scheme. Right to Acquire sales have represented an average of 5% of statutory sales over the last five years.
- 6.16 In the last five years, approximately 55% of sales have been from local authority housing stock with the remaining 45% coming from properties owned by registered social landlords.

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<sup>(4)</sup> Prior to 2013-14 data by area was only available from those sales completed by local authorities. The 5 year average will not include any sales by registered social landlords in these six authorities during 2012-13.

**Chart 1 - Number of sales under the Right to Buy and the Right to Acquire, Wales, 1980-81 to 2015-17**



Source: StatsWales, Welsh Government

6.17 Forecasting with any degree of accuracy is difficult and there is, therefore, a high degree of uncertainty about the number of sales that will take place between 2017-18 and 2026-27. As noted above, under The Housing (Right to Buy and Right to Acquire) (Limits on Discount) (Amendment) (Wales) Order 2015, the maximum discount available has been reduced from £16,000 to £8,000. This reduction, which came into effect in July 2015, is expected to dampen the demand from social housing tenants to purchase their homes. On the other hand, improvements in the economic situation means the number of tenants applying to exercise their rights could start to grow. At this stage, it is not clear which of these competing factors will outweigh the other.

6.18 More local authorities may apply to Welsh Ministers to suspend the Right to Buy in the no change scenario. To date, Swansea, Carmarthenshire, Anglesey, Flintshire, Denbighshire and Cardiff have had their applications to suspend Right to Buy in their area approved by Welsh Ministers. However, others may submit an application in the coming months. If approved, these would reduce the number of Right to Buy sales during the appraisal period. In any case, the number of sales is not expected to reach those levels experienced in the 1980s and 1990s.

6.19 For the purpose of this assessment, it is assumed the impact of the reduction in the maximum discount available and the economic recovery will cancel each other out. It is also assumed the suspensions to Right to Buy will remain in place in Swansea, Carmarthenshire, Anglesey, Flintshire, Denbighshire and Cardiff during the appraisal period but there are no further suspensions in other

areas. On this basis, the number of Right to Buy and Right to Acquire sales occurring in Wales in the baseline option during the appraisal period is assumed to be 185 per annum<sup>(5)</sup>. Due to the uncertainty involved in predicting future sales, this assumption is considered further in the sensitivity analysis at appendix 1.

6.20 In undertaking the projections and, in line with recent years, approximately 55% of the sales are assumed to be local authority properties, with the remaining 45% of sales from registered social landlords.

## Local authorities

6.21 Each Right to Buy sale generates opposing impacts on local authority finances. On the one hand, once a property has been sold, the local authority ceases to receive rental income for that property. However, it does receive a capital receipt reflecting the value of the property (less any discount) and it is no longer responsible for managing and/or maintaining the property, thus producing cost savings. There is also a cost to local authorities to administer each application from a tenant to purchase their home. Modelling has been undertaken to look at these competing impacts; the variables and assumptions used in this modelling work are outlined below.

## Rent

6.22 Data on the average rent paid by social housing tenants has been taken from StatsWales. The latest (2017-18) shows that the average weekly rent paid by social housing tenants living in local authority owned general needs self-contained units is £84.64. This equates to an annual rent of approximately £4,400. For the purposes of the modelling, annual rent levels are assumed to increase at a rate which is 1.5% higher than the general price level; this is in line with the social rent policy announcement made in December 2015.

## Capital receipt

6.23 In 2016-17, the average selling price for properties sold by local authorities under the Right to Buy scheme was approximately £84,300. The average discount on the market price in 2016-17 was approximately £10,100. This figure is higher than the maximum discount available (£8,000) because some of the sales in 2016-17 are from applications made prior to July 2015 when the maximum discount available was still £16,000. The average market value of Right to Buy property sold in 2016-17 is estimated to be approximately £94,400. It is assumed property values will increase in line with the forecasts published by the Office for Budget Responsibility<sup>12</sup> (6).

6.24 Subordinate legislation made by Welsh Ministers, which came into force in July 2015 reduced the maximum discount available under the Right to Buy scheme from £16,000 to £8,000. Under the baseline option, it is assumed the £8,000 maximum discount will remain in place throughout the appraisal period.

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(5) Prior to 2013-14 data by area was only available from those sales completed by local authorities. The five-year average will not include any sales by registered social landlords in these authorities during 2012-13.

(6) The Office for Budget Responsibility's Economic and Fiscal Outlook presents forecasts to 2020-21; the forecasts for the latter years are extrapolated to cover the full appraisal period.

## **Administrative cost**

6.25 Local authorities incur an administrative cost as a result of each Right to Buy application, even if the application does not proceed to the point of sale. This cost includes the cost of administering the application, a valuation report, any surveys and any legal and conveyancing costs. Data supplied by a sample of local authorities and registered social landlords indicate the cost of administering applications ranges from £300 to £900 depending on how far the application progresses and whether in-house legal support is available or whether it has to be sought from an external party. For the purposes of this regulatory impact assessment, a conservative figure of £650 is used as the administrative cost of a completed Right to Buy and Right to Acquire application. This cost is deducted from the capital receipt received by the local authority.

## **Repair and maintenance costs**

6.26 Local authorities incur costs associated with repairing and maintaining properties in the social housing stock, including the capital costs associated with major repairs. When a property is sold, the local authority is no longer responsible for maintaining it and will therefore no longer incur the cost. Data about routine repair and maintenance costs has been taken from the Statement of Accounts published by each of the 11 local authorities, which retain their social housing stock. The latest data (2015-16) suggest there is a wide variation in the amount of money spent on repairs and maintenance with the average annual cost ranging from £1,700 to £3,900 per property. Taking a weighted average for Wales as a whole gives an annual figure of approximately £3,120 for repairs and maintenance per property. It is recognised that property repair and maintenance costs are non-linear and expenditure may be affected by separate improvement works to achieve the Welsh Housing Quality Standard. However, in the absence of information about the maintenance requirements of properties sold under Right to Buy, the costs are assumed to be linear in the modelling. The latest data from the Office for National Statistics' Construction Output Price Indices suggests repair and maintenance costs are increasing by approximately 0.3% per annum above inflation.

## **Management costs**

6.27 Similarly, local authorities incur costs for managing the social housing stock. This is assumed to be a variable cost. The management cost is estimated to be approximately £840 per property on average per annum. Again, this data is taken from the 2015-16 Statement of Accounts published by each local authority. Management costs are assumed to increase in line with inflation over the appraisal period.

## **Scenarios**

6.28 The data presented on rents, repair and maintenance costs and management and supervision costs all relate to averages for all local authority owned properties across Wales. The data on the capital receipts from the sale of a

property relates only to those local authority owned properties that have been sold under the Right to Buy scheme.

6.29 The evidence suggests the properties sold under the Right to Buy have tended to be those in a better state of repair; in a more desirable area or of a certain property type. Therefore, assuming average rent, repair and maintenance and management costs may not be appropriate. In addition, as local authorities and registered social landlords achieve the Welsh Housing Quality Standard (the deadline for meeting the standard is 2020), annual capital expenditure on their housing stock is expected to decline. Assuming annual repair and maintenance costs continue at their 2015-16 levels, is therefore likely to be an over-estimate of these costs.

6.30 To reflect this in the analysis, three scenarios have been developed in which the rent paid on a property sold under Right to Buy is assumed to be higher than average and the maintenance and repair costs and management costs are assumed to be lower than the average. The three scenarios used in the analysis are set out in table 3. Scenario A assumes average rent, maintenance and repair costs and management costs and is included for transparency. In Scenario B it is assumed that the rent on homes sold under Right to Buy is 5% higher than average social rent and maintenance and repair and management costs going forward will be 75% and 50% (respectively) of the current averages for social sector properties. In Scenario C it is assumed that management costs are zero, the rent on homes sold under Right to Buy is 10% higher than the average social rent and maintenance and repair costs are 50% lower than the current average for social sector properties.

**Table 3 - Scenarios used in Modelling with adjustments to average rent, repair and maintenance costs and management costs.**

<b>Scenario</b>	<b>Rent</b>	<b>Maintenance and repair costs</b>	<b>Management costs</b>
A	100%	100%	100%
B	105%	75%	50%
C	110%	50%	0%

6.31 As stated above, the figure used in the modelling for the capital receipt from the sale of a local authority owned property under the Right to Buy scheme is based on actual sales data and is therefore not changed under any of the scenarios.

### **Modelling Results – baseline financial impact of Right to Buy sales**

6.32 Table 4 presents an estimate of the overall financial impact of an individual property sold under the Right to Buy scheme in 2017-18 in each of the scenarios. All costs have been discounted and are shown in present value terms. A positive figure in the net impact column suggests the lost rental surplus (rental income less maintenance and repair costs and management

costs) when the property is sold is outweighed by the capital receipt from the sale (and vice versa).

**Table 4 – Impact of an individual Right to Buy sale on local authority finances under the different scenarios**

(£, present value)

Scenario	Useful lifetime of assets (years)	Rental surplus	Capital receipt	Net impact
A	30	25,600	81,400	55,800
	40	35,800	81,400	45,600
	50	46,000	81,400	35,400
B	30	53,200	81,400	28,200
	40	68,400	81,400	13,000
	50	82,500	81,400	- 1,100
C	30	80,800	81,400	600
	40	101,100	81,400	- 19,700
	50	119,000	81,400	- 37,600

- 6.33 In scenario A, there is a net financial benefit to local authorities from the sale of the property as the value of the capital receipt exceeds the rental surplus. The higher rental income and lower costs under scenarios B and C mean the net impact is mixed, varying according to the remaining useful lifetime of the property. The longer the remaining useful life of the property, the longer the period in which the rental surplus can accrue, and the more likely it is that the rental surplus will offset or exceed the capital receipt from the sale of the property. This general pattern is consistent across all scenarios.
- 6.34 To some extent, this pattern may be the result of the inclusion of a single average capital receipt for properties sold under the Right to Buy in the modelling. It could be argued that those properties with a longer remaining economic life would have a higher market value (and vice versa). Any increase (decrease) in the capital receipt for a property with a longer (shorter) economic life would make the financial impact of a sale more marginal. This is considered further in the sensitivity analysis at appendix 1.
- 6.35 Table 5 presents the estimated aggregate impact of Right to Buy sales on local authority finances based on the assumed number of sales during the 10-year appraisal period. This table demonstrates a similar pattern to that in table four above, with local authorities appearing to benefit financially from Right to Buy sales under scenario A with a smaller or negative impact under scenarios B and C.

**Table 5 – Aggregate impact of Right to Buy sales on local authority finances**

(£m, present value)

Scenario	Useful lifetime of assets (years)	Rental surplus	Capital receipt	Net impact
A	30	27.9	77.7	49.8
	40	38.3	77.7	39.4
	50	48.4	77.7	29.3
B	30	52.7	77.7	25.0
	40	67.6	77.7	10.1
	50	81.3	77.7	-3.6
C	30	77.3	77.7	0.4
	40	96.8	77.7	-19.1
	50	114.1	77.7	-36.4

## Registered social landlords

6.36 Similar modelling to that undertaken for local authorities (as set out above) is required to demonstrate the potential impact on the finances of registered social landlords. One difference between the impact on local authorities and registered social landlords is that the latter receive a reimbursement from Welsh Ministers for the discount on each property sold under the Right to Acquire. In other words, – the registered social landlord receives the market value for each property sold under the Right to Acquire. However, registered social landlords do not receive a reimbursement for sales under the Preserved Right to Buy and these represented approximately 83% of total statutory sales by registered social landlords in 2016-17.

6.37 Data on average rents, repairs; maintenance costs and management costs have been taken from financial statements published by registered social landlords for the year ending March 2016. In the absence of any alternative data, the average market value of a property sold under the Right to Buy and Right to Acquire by a registered social landlord is assumed to be the same as that for properties sold by local authorities (albeit adjusted to reflect the reimbursement for the discount received on the Right to Acquire sales). An administrative cost of £650 per sale is deducted from the capital receipt received by registered social landlords (this is the same as the administrative cost incurred by local authorities).

6.38 Tables 6 and 7 show the impact of Right to Buy and Right to Acquire sales on the finances of registered social landlords at the individual property and aggregate levels respectively. As noted above, it is assumed 45% of all statutory sales are properties owned by registered social landlords.

**Table 6 - Impact of an individual sale on registered social landlord finances over typical periods of the useful economic life of an asset**

(£, present value)				
Scenario	Useful lifetime of assets (years)	Rental surplus	Capital receipt	Net impact
A	30	25,700	81,800	56,100
	40	36,200	81,800	45,600
	50	46,500	81,800	35,300
B	30	55,400	81,800	26,400
	40	71,000	81,800	10,800
	50	85,600	81,800	-
C	30	84,800	81,800	3,000
	40	106,000	81,800	-
	50	124,700	81,800	42,900

6.39 The modelling suggests the impact of Right to Buy and Right to Acquire sales on registered social landlords' finances is broadly similar to that on the finances of local authorities. The patterns between scenarios is the same with Right to Buy and Right to Acquire sales appearing to benefit registered social landlords under scenario A but the impact being smaller or negative under scenarios B and C.

**Table 7 - Aggregate impact of Right to Buy sales on registered social landlord finances**

(£m present value)

Scenario	Useful lifetime of assets (years)	Rental surplus	Capital receipt	Net impact
A	30	23.2	63.9	40.7
	40	31.7	63.9	32.2
	50	40.2	63.9	23.7
B	30	44.7	63.9	19.2
	40	57.4	63.9	6.5
	50	69.0	63.9	-5.1
C	30	66.3	63.9	-2.4
	40	83.0	63.9	-19.1
	50	97.7	63.9	-33.8

6.40 Based on the modelling, the combined impact of Right to Buy and Right to Acquire sales on local authority and registered social landlord finances is estimated to range from -£70.2 to +£90.5m over the 10-year appraisal period. This wide range reflects the number of variables and levels of uncertainty in the modelling.

## Welsh Government

6.41 As noted above, registered social landlords currently receive a reimbursement from the Welsh Government for the value of the discount on each property sold under the Right to Acquire scheme. In 2015-16, the total value of the reimbursement paid by the Welsh Government to registered social landlords was £80,000. Based on Right to Acquire sales continuing to account for 5% of total statutory sales and the maximum discount available continuing to be £8,000, the estimated cost to Welsh Government in this option is approximately £72,000 per annum<sup>7</sup>. This reimbursement is a financial transfer from the Welsh Government to registered social landlords.

## Impact on other government departments

6.42 There is strong evidence from across the UK that after a period of time, properties sold under the Right to Buy scheme end up in the private rented sector. Some of the properties are rented out and then become subject to claims from the tenants for local housing allowance, which is a public subsidy for the tenant which is paid towards the cost of renting from a private landlord. Given rent levels in the private rented sector are, on average, higher than those in the social sector, if a property previously sold under the Right to Buy is subsequently rented out as private rented accommodation, the costs to the

<sup>7</sup> This is lower than 2015-16 due to the additional Right to Buy suspensions.

tenants and also to the public purse from higher local housing allowance payments – from the Department for Work and Pensions – will be greater than if the property had remained in the social housing sector.

- 6.43 Research in Scotland<sup>13</sup> studied local housing allowance claims in Renfrewshire. It found that 43% of claims were on former Right to Buy properties and estimated the UK Government was paying approximately £3m per annum more than if the property had remained within the social sector. Extrapolating these results, the research suggests the additional cost across the UK as a whole could be between £0.5bn and £2bn per annum. The authors of the report acknowledge more detailed work is required to strengthen these estimates.
- 6.44 The Welsh Government's Statistical Directorate and the Rent Officers Wales service have undertaken a similar analysis in Wales as part of the development work for this Bill. Using Right to Buy and Right to Acquire sales data from eight local authorities in the period 1997-98 to 2014-15 and cross-referencing it with local housing allowance claims for the period 2010-11 to 2014-15, the analysis shows an estimated 2,001 former social sector properties are now in the private rented sector and subject to a housing benefit claim.
- 6.45 Modelling the difference between housing benefit payments and average social rents by area and property type suggests an average estimated additional cost to the public sector as a result of Right to Buy and Right to Acquire of £1.86 million per annum over the period 2010-11 to 2014-15 compared to if the properties had remained in the social sector. On balance, this figure is likely to be an underestimate of the cost, most notably because the analysis only considers those properties sold under Right to Buy and Right to Acquire since 1997-98. If data was available on all properties sold under the Right to Buy and Right to Acquire, including those sold before this point i.e. before 1997-98, the cost would be higher. Extrapolating the modelling to the all-Wales level suggests that the additional cost as a result of Right to Buy is approximately £4.4m per annum on average over the period 2010-11 to 2014-15. This figure should be treated with some caution as various assumptions have been made in the research.
- 6.46 On this basis, this represents a potential additional cost to the Department for Work and Pensions and the public purse in relation to local housing allowance payments made on properties sold under the Right to Buy scheme in the 10 year appraisal period.
- 6.47 It should be noted the Housing Benefit payments made by the Department of Work and Pensions are transfers (made from Central Government to householders) and are not therefore economic costs.

## Tenants

- 6.48 The main consequence of the Right to Buy and Right To Acquire is the reduced level of social housing stock, which can mean people on housing waiting lists often have to wait longer for properties to become available. In addition, existing tenants who want to move to a home more suited to their needs can encounter difficulties because of a lack of available homes of the right type and in a suitable area. These difficulties can be worse in rural areas where, due to

limited supply, there may be relatively few properties owned by social landlords which are available for rent by local people on modest incomes.

6.49 Cost analyses in this assessment consider the additional costs to the implementation of new legislation. As this is the no change option, there are no additional costs for tenants.

## **Benefits**

6.50 There are no additional benefits associated with the no change option. However, tenants who are eligible and who are able to raise the necessary finance will retain their property at a discounted price.

## **Option 2: Abolish the Right to Buy and the Right to Acquire for newly-let social housing only, two months after Royal Assent**

### **Description**

- 6.51 Right to Buy would end on newly-let properties but tenants in older properties would retain the option to purchase their property. The rationale for this option is to encourage building, conversion and acquisition of additional social housing by local authorities whilst continuing to allow eligible tenants to exercise their Right to Buy.
- 6.52 Data from StatsWales shows a decline in the number of new dwellings built by local authorities in past years – only 20 were built in the 10-year period 2007-08 to 2016-17 (see Table 8). There are a number of factors behind this decline in building activity, including, financial constraints and the need to allocate funds to improve the existing dwelling stock to meet the Welsh Housing Quality Standard.
- 6.53 It has been suggested the Right to Buy scheme may discourage local authorities from building new social housing due to the risk of losing the property (at a discounted price) within a relatively short period of time. There are some mechanisms in place to protect local authorities and registered social landlords, such as cost floors built into the system, which prevent a property from being sold for less than the cost incurred in building, investment in and maintaining the property. Nevertheless, the risk is still considered to represent a deterrent to building new properties. This option is intended to remove the deterrent.

**Table 8 – New housing completions by year and sector**

	<b>Private</b>	<b>Registered social landlord</b>	<b>Local authority</b>	<b>Total</b>
<b>2000-01</b>	7,386	900	47	<b>8,333</b>
<b>2001-02</b>	7,494	711	68	<b>8,273</b>
<b>2002-03</b>	7,522	782	6	<b>8,310</b>
<b>2003-04</b>	7,863	417	16	<b>8,296</b>
<b>2004-05</b>	7,986	475	31	<b>8,492</b>
<b>2005-06</b>	7,883	347	19	<b>8,249</b>
<b>2006-07</b>	8,988	346	0	<b>9,334</b>
<b>2007-08</b>	8,316	343	5	<b>8,664</b>
<b>2008-09</b>	6,429	692	0	<b>7,121</b>
<b>2009-10</b>	5,291	880	3	<b>6,174</b>
<b>2010-11</b>	4,513	992	0	<b>5,505</b>
<b>2011-12</b>	4,746	829	0	<b>5,575</b>
<b>2012-13</b>	4,707	744	0	<b>5,451</b>
<b>2013-14</b>	5,160	671	12	<b>5,843</b>
<b>2014-15</b>	5,333	837	0	<b>6,170</b>
<b>2015-16</b>	5,646	1,254	0	<b>6,900</b>
<b>2016-17</b>	5,590	1,243	0	<b>6,833</b>

Source: StatsWales

6.54 In updating the report on housing need, which was commissioned by the Welsh Government in 2010<sup>14</sup>, the Public Policy Institute for Wales report *Future Need and Demand for Housing in Wales* (September 2015)<sup>15</sup> estimated between 2011 to 2031, an additional 174,000 homes will be needed. This equates to 8,700 per year, of which 5,200 would be needed in the market sector and 3,500 a year in the social rented (<sup>8</sup>) sector. This amounts to an additional 70,000 social rented homes over the 20-year period.

6.55 Although the number of social housing homes built in recent years, mainly by registered social landlords, has exceeded the number of properties lost through Right to Buy and Right to Acquire, the net increase remains well below the forecast housing need.

## Costs

### Transition costs

#### Welsh Government

6.56 There will be costs to the Welsh Government in communicating the policy change to stakeholders and producing guidance setting out how the law around Right to Buy has changed and clarifying the position for social housing tenants.

6.57 Implementation is estimated to require a relatively small amount of the time of policy officials employed in mid-range policy posts and other officials, including lawyers. The gross cost (including on-costs) for the work to implement this option would be incurred in the year following Royal Assent and is estimated at £25,000. This covers the cost of communication and ongoing queries, particularly for new applicants and tenants. These costs would be absorbed within existing workloads and prioritised for action as part of business in later years.

#### Local authorities

6.58 There would be transition costs to local authorities in terms of familiarising themselves with the new policy and ensuring that their websites are up to date. This is expected to cost an average of £1,200 for each of the 11 stock-holding local authorities amounting to £13,200 and an estimated £500 for each of the eleven non-landlord local authorities in their strategic capacity. This would amount to £18,700 in total for all local authorities in their strategic housing capacity. This is based on an estimate of a small (5%) percentage of the time of a senior housing officer in a strategy post.

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(<sup>8</sup>) In the report, market housing is defined as owner-occupied (including shared ownership) or rented from private owners without housing benefit (including renting with a job or business). The social sector comprises renting from a local housing authority or housing association or from a private landlord with housing benefit .

## Registered social landlords

6.59 Of the registered social landlords operating in Wales, about 80% share common housing registers with their local authorities and partners. The local authority has nomination rights and housing allocations are determined predominantly in partnership. In other, non-common register areas, registered social landlords and social landlords maintain their own waiting lists. A nominal figure of £500 per registered social landlord has been assessed as the cost of implementing this option, including the cost of updating of websites; the issuing of tenant information and any necessary staff training, for example. This equates to a total cost of £18,500.

**Table 9 - Summary transition costs for option 2**

	<b>Year 1 2017-18 £</b>	<b>Year 2 2018-19 £</b>	<b>Year 3 2019-20 £</b>	<b>Year 4 2020-21 £</b>	<b>Year 5 2021-22 £</b>
Welsh Government	25,000	0	0	0	0
Local authorities	18,700	0	0	0	0
Registered social landlords	18,500	0	0	0	0
Total	62,200	0	0	0	0

## Modelling results – financial impact of restriction on sales

### Local authorities

6.60 The impact of this option on the number of properties sold by local authorities is expected to be limited. As noted above, very few new properties have been built by local authorities in recent years. In addition, a tenant in a new-build property may not meet the eligibility criteria to purchase their home. A number of local authorities have indicated that the abolition of the housing revenue account subsidy system may enable them to finance new social housing developments. However, given other financial pressures, the number of properties built is likely to remain low in the short to medium-term.

6.61 On this basis, it is assumed the number of local authority properties sold under Right to Buy in this option would be the same as under option 1. The impact of Right to Buy sales on local authority finances would therefore be the same as in option 1 (see Table 5).

### Registered social landlords

6.62 While registered social landlords have been building new social housing in recent years the scale of that activity remains relatively low compared to the forecast housing need. In recent years, the number of new homes built each year has been approximately 0.5% of the total stock of homes owned by registered social landlords. Therefore, although the opportunity to buy new-

build homes may appeal to eligible tenants, the overall impact on the number of Right to Buy and Right to Acquire sales each year is expected to be quite low. For the purposes of this assessment, it is assumed that Right to Buy and Right to Acquire sales are 2% lower in this option than the baseline.

6.63 Table 10 presents the estimated aggregate impact of Right to Buy and Right to Acquire sales on registered social landlord finances under this option and a comparison to the baseline option. Given the small reduction in the number of sales under this option, the difference between this option and the baseline option is relatively small. Where registered social landlords were shown to benefit from Right to Buy and Right to Acquire sales in the baseline – for example in scenario A – restricting those sales has a negative impact on registered social landlords’ finances. The reverse is true for the scenarios where the modelling identified a net cost to registered social landlords in the baseline from the sales.

**Table 10 – Aggregate impact of Right to Buy sales on registered social landlord finances**

(£m, present value)

Scenario	Useful lifetime of assets	Rental surplus	Capital receipt	Net impact	Compared to baseline
A	30	22.7	62.6	39.9	-0.8
	40	31.2	62.6	31.4	-0.8
	50	39.5	62.6	23.1	-0.6
B	30	43.8	62.6	18.8	-0.4
	40	56.2	62.6	6.4	-0.1
	50	67.6	62.6	-5.0	0.1
C	30	65.0	62.6	-2.4	0.0
	40	81.3	62.6	-18.7	0.4
	50	95.8	62.6	-33.2	0.6

6.64 Based on the modelling, the impact of the restriction on sales in this option on registered social landlord finances is estimated to range from -£0.8m to +£0.6m (relative to the baseline) over the 10-year appraisal period.

## Welsh Government

6.65 The limited impact of this option on the number of property sales means that the reimbursement paid by the Welsh Government to registered social landlords for the discount on Right to Acquire sales is unlikely to change significantly from option 1. The cost is therefore assumed to remain at £72,000 per annum.

## Benefits

6.66 Under this option, the current rights of tenants living in older properties would be unaffected.

- 6.67 The modest number of sales expected to be prevented under this option means it is unlikely to have a significant direct impact on the social housing stock. Over the 10-year appraisal period, this option is only expected to prevent the loss of around 17 homes from the social housing sector.
- 6.68 The impact of this option could be greater if the abolition of Right to Buy on new supply housing encouraged local authorities to invest in building and/or acquiring new properties. The abolition of the housing revenue account subsidy by the Housing (Wales) Act 2014 enables local authorities to retain more of their rental income. In addition, expenditure on major repairs should decline in future years as local authorities' existing housing stock achieves the Welsh Housing Quality Standard. Local authorities could therefore have more resources available to them to invest in new social housing. Removing the risk of new social housing being lost at a discounted price within a few years may encourage this investment.
- 6.69 It follows there is a potential benefit to the construction industry in Wales if the abolition of the Right to Buy encourages further investment in developing new social housing.

## **Option 3: Abolish the Right to Buy and Right to Acquire on all social housing two months after Royal Assent**

### **Description**

6.70 The Right to Buy and Right to Acquire schemes would be abolished on all social housing two months after the Bill receives Royal Assent to allow for wider publication of the change. Applications which had already been submitted by tenants to exercise their Right to Buy or Right to Acquire before abolition would continue to be dealt with by social housing landlords but no new applications to exercise the Right to Buy or Right to Acquire could be submitted by tenants.

### **Costs**

#### **Transition costs**

##### **Welsh Government**

6.71 There will be a cost to the Welsh Government to communicate the policy change; the date on which the change will come into force and guidance on processing pre-existing applications to exercise the Right to Buy under this option. The straight-forward nature of the option means guidance will be limited. The cost of this option, which has been calculated using the same approach as in option 2, is estimated to be £18,500. The transition costs will be incurred in 2017-18, assuming the Bill receives Royal Assent by the start of 2018. Such costs would be absorbed within existing workloads and prioritised for action as part of business in later years.

##### **Local authorities**

6.72 There will be a cost to local authorities to inform tenants that the Right to Buy scheme is ending. Based on the costs incurred by the first two local authorities which suspended the Right to Buy, individual notification to all tenants costs approximately £1 per council tenancy. There will also be a cost to update council websites, instruct and train and make any relevant changes to documentation. The total cost for all local authorities is estimated at approximately £73,000.

##### **Registered social landlords**

6.73 The impact on registered social landlords is expected to be similar to that on local authorities. Registered social landlords will be required to inform their tenants the Right to Buy and Right to Acquire will be ending. The one-off cost is estimated to be £117,000, based on a housing stock of 117,000.

**Table 11 - Summary transition costs for option 3**

	<b>Year 1 2017-18 £</b>	<b>Year 2 2018-19 £</b>	<b>Year 3 2019-20 £</b>	<b>Year 4 2020-21 £</b>	<b>Year 5 2021-22 £</b>
Welsh Government	18,500	0	0	0	0
Local authorities	73,000	0	0	0	0
Registered social landlords	117,000	0	0	0	0
<b>Total</b>	<b>208,500</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## **Modelling results – financial impact of restriction on sales**

### **Local authorities and registered social landlords**

6.74 Following the abolition of Right to Buy, local authorities and registered social landlords would no longer receive the capital receipts from the sale of the asset but would continue to receive rental income from the property. Local authorities and registered social landlords would continue to be responsible for managing and maintaining the properties. If passed, Royal Assent is currently anticipated at the beginning of 2018 and therefore, under this option, the Right to Buy would be abolished in Wales from the end of February 2018. Tenants could continue to apply to exercise their Right to Buy for the majority (11 out of the 12 months) of 2017-18.

6.75 The communications activity identified above (paragraphs 6.71 – 6.73) coupled with news about the progression of the legislation through the National Assembly would be expected to result in a spike in the number of Right to Buy applications during 2017-18. The assumption that there will be a spike in sales is supported by evidence from previous reductions in the maximum discount available (see chart 1 and paragraph 6.14) and from elsewhere.

6.76 The Housing (Scotland) Act 2014 contained provisions to abolish the Right to Buy in Scotland and included a two-year notice period, which ended on 1 August 2016. The experience in Scotland provides some evidence of the potential spike in applications that could be experienced in Wales. The latest statistics show that the number of social housing sales in Scotland increased by 20% between 2013-14 and 2014-15 (the period during which the abolition of the Right to Buy was agreed) and by a further 12.5% in 2015-16.

6.77 Similarly, there appears to have been a spike in the number of Right to Buy sales in Swansea and Carmarthenshire in the period leading up to the suspension of Right to Buy in those areas in 2014-15. Table 12 below shows the number of sales in Swansea and Carmarthenshire and the total for Wales between 2010-11 and 2014-15. The number of Right to Buy sales increased by 84% and 200% in Swansea and Carmarthenshire respectively between 2012-

13 and 2013-14 (albeit from a low base), which was greater than the increases seen in other areas of Wales.

**Table 12 - Increase in Right to Buy and Right to Acquire sales in the lead up to suspensions in Swansea and Carmarthenshire**

	2010-11	2011-12	2012-13	2013-14	2014-15
Swansea	14	16	19	35	43
Carmarthenshire	16	11	14	42	31
<b>Wales</b>	<b>172</b>	<b>171</b>	<b>170</b>	<b>253</b>	<b>286</b>

6.78 The reduction in the maximum discount available means the spike in Right to Buy sales in the year following Royal Assent is unlikely to be as steep as that experienced in Swansea and Carmarthenshire between 2012-13 and 2013-14. For the purposes of this Regulatory Impact Assessment, it is assumed the annual number of Right to Buy sales will increase by between 20% and 50% (relative to the baseline). This equates to between 222 and 278 sales in each year. This assumption is tested in the sensitivity analysis. All other factors in the modelling – the average selling price, Right to Buy discount, administrative cost, rent, maintenance, repair and management costs and the split of sales between local authorities and registered social landlords – are held constant.

6.79 Tables 13 and 14 present the estimated impact of the Right to Buy and Right to Acquire sales in this option on local authority and registered social landlord's finances. The change column represents the comparison of the financial impact under this option with that in the 'do nothing', baseline option.

**Table 13 – Aggregate impact of Right to Buy sales on local authority finances under option 3**

Scenario	Useful lifetime of assets	(£m, present value)							
		20% increase				50% increase			
		Rental surplus	Capital receipt	Net impact	Change	Rental surplus	Capital receipt	Net impact	Change
A	30	2.9	9.1	6.2	-43.6	3.5	11.4	7.9	-41.9
	40	4.0	9.1	5.1	-34.3	5	11.4	6.4	-33.0
	50	5.2	9.1	3.9	-25.4	6.4	11.4	5.0	-24.3
B	30	5.9	9.1	3.2	-21.8	7.4	11.4	4.0	-21.0
	40	7.6	9.1	1.5	-8.6	9.5	11.4	1.9	-8.2
	50	9.3	9.1	-0.2	3.4	11.6	11.4	-0.2	3.4
C	30	9.1	9.1	0.0	-0.4	11.4	11.4	0.0	-0.4
	40	11.3	9.1	-2.2	16.9	14.1	11.4	-2.7	16.4
	50	13.4	9.1	-4.3	32.1	16.7	11.4	-5.3	31.1

**Table 14 - Aggregate impact of Right to Buy sales on registered social landlord finances under option 3**

**(£m, present value)**

Scenario	Useful lifetime of assets	20% increase				50% increase			
		Rental surplus	Capital receipt	Net impact	Change	Rental surplus	Capital receipt	Net impact	Change
A	30	2.4	7.5	5.1	-35.6	2.9	9.4	6.5	-34.2
	40	3.3	7.5	4.2	-28.0	4.1	9.4	5.3	-26.9
	50	4.2	7.5	3.3	-20.4	5.3	9.4	4.1	-19.6
B	30	5.1	7.5	2.4	-16.8	6.4	9.4	3.0	-16.2
	40	6.5	7.5	1.0	-5.5	8.2	9.4	1.2	-5.3
	50	7.8	7.5	0.3	-4.8	9.8	9.4	0.4	-4.7
C	30	7.8	7.5	0.3	-2.1	9.7	9.4	0.3	-2.1
	40	9.7	7.5	2.2	16.9	12.1	9.4	2.7	16.4
	50	11.5	7.5	4.0	29.8	14.3	9.4	4.9	28.9

6.80 Whether the net impact on finances is positive or negative depends on the scenario being considered and the relative age of the property which would otherwise have been sold under the Right to Buy and Right to Acquire. Under scenario A, the abolition of Right to Buy is expected to have a negative impact on local authority and registered social landlord finances because the rental surplus they will receive will be lower than the capital receipts they would have received on selling the property. Under scenario C – where rental income on Right to Buy properties is assumed to be higher than average and maintenance and management costs lower than average – the abolition of Right to Buy is expected to have a more neutral or even positive impact on local authority and registered social landlord finances. The impact is mixed in scenario B. The newer the property the more likely it is that the abolition of Right to Buy will have a positive net impact on finances because of the longer period over which a rental surplus would be generated on the retained property.

6.81 Based on the modelling, the combined impact of the abolition of Right to Buy and Right to Acquire sales on local authority and registered social landlord finances is estimated to range from -£79.2m to +£61.9m over the 10-year appraisal period. The modelling does not consider the residual value of the properties and/or the land on which they are built at the end of the appraisal period. Having retained ownership of the properties, any residual value will go to social landlords in this option.

6.82 Social landlords have confirmed their business plans and their ability to meet the Welsh Housing Quality Standard are not dependent on capital receipts from sales under the Right to Buy. In the absence of capital receipts from property sales, local authorities would have a couple of options for funding new affordable housing. For example, any rental surplus (rental income less maintenance and management costs) could be used directly (or held in a reserve) to fund building developments or they could borrow capital upfront through the prudential borrowing regime and then use future rental surpluses to fund repayments.

## **Welsh Government**

6.83 Under this option, the Welsh Government would no longer have to reimburse registered social landlords for the discount on Right to Acquire sales following abolition. In 2017-18 and the 11 months leading up to the abolition, there are estimated to be between 10 and 13 Right to Acquire sales (this is higher than the baseline due to the anticipated spike in sales). This represents an increased cost of £8,000 to £32,000. Based on the modelling results presented under option 1, there would be a cost-saving of approximately £72,000 per annum from 2018-19 as a result of the abolition of the Right to Acquire.

## **Tenants**

6.84 Under this option, any eligible tenant who had not applied to exercise the Right to Buy would lose the Right to Buy their home. As discussed above, one of the reasons behind the introduction of the Right to Buy scheme in the 1980s was that it helped to deliver the aspiration of home-ownership held by many tenants.

6.85 The financial impact of abolishing the Right to Buy on social sector tenants is unknown. The tenants prevented from purchasing their home under this option could remain in their home and would continue to pay rent to their local authority or registered social landlord (as opposed to making mortgage repayments and being responsible for the maintenance of their property) or they could consider purchasing (or renting) an alternative property in the private sector (see below).

6.86 The decision on whether to continue to rent in the social sector or to purchase a property in the private sector is a choice for each individual household. Assuming a rational choice is made, the decision will be dependent on whether the expected additional benefits attached to home ownership justify the likely additional costs (at least in the short to medium-term) associated with home ownership. For example, these might include increased flexibility, being able to make improvements to a property or holding an asset which could be bequeathed.

## **Private housing market**

6.87 Abolishing the Right to Buy in Wales could potentially have some impact on the wider housing market if social sector tenants who are keen and financially able to purchase a property decided to look to the private housing sector to buy a property. In theory, this could increase competition for private homes on the

market which, in the absence of any increase in housing supply, could have the potential to generate upward pressure on house prices. Higher property prices in the private sector could in turn increase the demand for social sector housing. In practice however, and taking into account the relatively low take up of Right to Buy in recent years, the number of people who decide to give up their social rented property and purchase from the private housing market is expected to be low. The impact on house prices and markets has not been quantified and is therefore unknown, however, the cost associated with this is expected to be low.

6.88 Data for 2016-17 suggests there were 51,520 residential property transactions completed in Wales<sup>9</sup>. This represents a decrease on previous years and is still below pre-economic downturn levels. If the number of transactions does not increase further and remains around the 50,000-55,000 level then Right to Buy sales (assumed in the modelling to be 185 per annum) will continue to represent less than 0.5% of total annual residential property transactions. Therefore, and as suggested above, while there is the potential for some localised effects, the overall impact on the wider housing market of abolishing the Right to Buy is expected to be small. This finding is equally applicable to options 4 and 5.

## Benefits

6.89 The main benefit of this option is that it would prevent any further reduction in the social housing stock. As noted above, around 140,000 properties have been sold under the Right to Buy and Right to Acquire schemes and the stock of social housing in Wales has fallen from an estimated 317,000 properties in 1980 to 234,508 properties<sup>10</sup> at 31 March 2017 – a fall of 26%. While the long-term trend has been downwards, the stock of social housing has been increasing in recent years, largely due to new properties being built by registered social landlords. Abolishing the Right to Buy and Right to Acquire would maintain and increase the overall stock.

6.90 Based upon the modelling results, abolishing the Right to Buy scheme two months after Royal Assent is estimated to prevent the sale of between 1,645 and 1,600 social properties over the 10-year appraisal period. This represents a little under 1% of the current total social housing stock. As would be expected, out of the options considered, this one would have the largest effect on the number of properties sold under Right to Buy compared to the baseline as all sales would be ended two months after Royal Assent.

6.91 The benefits from protecting the stock of social housing are expected to be experienced in the medium to long-term. In the short-term, following the abolition of Right to Buy, any tenant who might otherwise have purchased their property would be expected to remain in the property. The English Housing Survey 2012-13 reported that social sector tenants had been living at their current address for an average of 11 years. In addition, it has been reported, on

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/644811/UK\\_Tables\\_Sep\\_2017\\_\\_cir\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/644811/UK_Tables_Sep_2017__cir_.pdf)

<sup>10</sup> This includes intermediate tenures, intermediate rents and other social housing – social rented only figure is 227,347 – see link: <https://statswales.gov.wales/v/Bup0>

average, tenants who purchased their property under the Right to Buy scheme retained their property for an average of 16 years following the purchase. Therefore, it is only in the longer-term, after the original tenant has vacated the property that it would be expected to become available to other people to help meet housing needs.

- 6.92 As stated by the Joseph Rowntree Foundation,<sup>3</sup> social housing plays a very important role in tackling poverty due to its targeted nature. According to the Foundation, housing costs are the way in which the housing sector has its most important and direct impact on poverty. The number of people in “housing cost-induced poverty” – those who become poor once housing costs are taken into account – has increased over the past two decades. Social housing’s relatively low rents make an important contribution to reducing “housing cost-induced poverty” and material deprivation among social tenants. As social housing is highly-targeted towards people on low incomes, the Joseph Rowntree Foundation concludes it to be the most “pro-poor” and redistributive aspect of the entire welfare state. It therefore recommends that if housing policy is to be used to reduce poverty, traditional social housing should be maintained and developed. This is the thrust of this option and options 4 and 5.
- 6.93 The modelling detailed above includes an administrative cost-saving to local authorities and registered social Landlords from no longer having to administer Right to Buy and Right to Acquire sales. However, local authorities and registered social landlords also incur a cost in administering applications which, for whatever reason, do not proceed to a sale. Depending on the stage to which these applications progress, these costs can run to several hundreds of pounds. Abolishing the Right to Buy and Right to Acquire means local authorities and registered social landlords will no longer incur these costs. No information is available on the number of applications each year which are not completed and so this cost-saving can not be quantified and is therefore unknown at this stage.
- 6.94 In addition to maintaining the existing stock, this option would be expected to provide additional encouragement to Local Authorities to invest in building or acquiring new social housing without the risk of losing the property (at a discounted price) within a few years. The impact may be greater under this option because abolishing the Right to Buy on all properties would provide local authorities with greater certainty about the rental income they are likely to receive in future years enabling them to make investment decisions with firmer information on future income streams. Investment in new social housing is considered vital to meet future housing needs. Again, any additional investment in social sector housing is likely to have a positive impact on the construction sector in Wales.
- 6.95 The analysis of option 1 (see paragraphs 6.42 – 6.47) identified an additional cost to the Department for Work and Pensions associated with housing benefit claims related to former social sector properties sold under Right to Buy or Right to Acquire. While this option will not address the cost associated with properties that have previously been sold under the Right to Buy or Right to Acquire, it could help limit future increases in costs by preventing the sale of more social sector properties which might subsequently end up in the private rented sector and subject to a housing benefit claim.

## **Option 4: Abolish the Right to Buy and Right to Acquire for all social housing one year after Royal Assent**

### **Description**

- 6.96 Under this option, the Right to Buy and Right to Acquire would be abolished but there would be a one-year notice period following Royal Assent. This would provide eligible tenants with an opportunity to apply to exercise their Right to Buy.
- 6.97 The purchase of a dwelling is a significant decision but a one-year period before abolition could have a number of benefits. These benefits are explained in paragraph 6.111. Tenants have had opportunities to be aware of the potential for the Right to Buy to end since the consultation exercise in January 2015. This was widely publicised at the time, including by tenants' organisations.

### **Costs**

#### **Transition costs**

##### **Welsh Government**

- 6.98 There would be a cost to the Welsh Government associated with communicating the change in policy to local authorities, registered social landlords and other relevant bodies. In addition, information will be required setting out the new policy and identifying the deadline for tenants to apply to exercise their Right to Buy. The activity involved is broadly an extension of that needed under option two plus the activities associated with the introduction of blanket abolition one year after Royal Assent. The estimated cost in respect of policy officials time and handling for this is £37,500, broken down as year one (2017-18) £25,000 and year two (2018-19) £12,500. Costs for a second year have been included so tenants are aware the Right to Buy has ended and for dealing with any ongoing queries.

##### **Local authorities**

- 6.99 As with option three, there will be a cost to local authorities to inform tenants the Right to Buy scheme will be ending. Based on the experience of the first two of the three local authorities, which have suspension in place, individual notification to all tenants are estimated to a cost approximately £1 per council tenancy, and for updating their websites, training and making any relevant changes to documentation. Based on the March 2015 level of general needs stock of around 73,000; this results in a total cost to local authorities of some £73,000, occurring in 2017-18. In this option (and option 5), there is expected to be a continuing need to notify and deal with queries in the year after abolition. The cost to local authorities in 2018-19 is estimated to be £36,500.

## Registered social landlords

6.100 The impact of this option on registered social landlords is expected to be similar to that for local authorities – based on a general needs stock of 117,000. Registered social landlords will be required to inform their tenants the Right to Buy and Right to Acquire will be ending. In 2017-18, the cost is estimated to be £117,000 with a further cost of £58,500 in 2018-19.

**Table 15 - Summary transition Costs for option 4**

	<b>Year 1 2017-18 £</b>	<b>Year 2 2018-19 £</b>	<b>Year 3 2019-20 £</b>	<b>Year 4 2020-21 £</b>	<b>Year 5 2021-22 £</b>
Welsh Government	25,000	12,500	0	0	0
Local authorities	73,000	36,500	0	0	0
Registered social landlords	117,000	58,500	0	0	0
Total	215,000	107,500	0	0	0

Note: There could be an additional cost for the Welsh Government (reimbursement) - see para 6.105

## Modelling Results – financial impact of restriction on sales

### Local authorities and registered social landlords

6.101 As with option 3, communication activity and news coverage of the Bill's progress through the National Assembly is expected to create a spike in the number of Right to Buy applications relative to the baseline. This increase in the number of applications is expected to range between 20% and 50%. The spike in sales is expected to occur in the period leading up to Royal Assent and throughout the one year notice period. At the end of the one-year notice period, there will be no further Right to Buy or Right to Acquire sales in Wales.

6.102 Tables 16 and 17 show the estimated impact of the Right to Buy and Right To Acquire sales in this option on local authority and registered social landlord's finances. The change columns present a comparison of the financial impact under this option with that in the 'do nothing', baseline option.

**Table 16 – Aggregate impact of Right to Buy sales on local authority finances under option 4**

(£m, present value) Scenario	Useful lifetime of assets	20% increase				50% increase			
		Rental surplus	Capital receipt	Net impact	Change	Rental surplus	Capital receipt	Net impact	Change
A	30	5.5	17.3	11.8	-38.0	6.9	21.6	14.7	-35.1
	40	7.7	17.3	9.6	-29.8	9.6	21.6	12.0	-27.4
	50	9.8	17.3	7.5	-21.8	12.2	21.6	9.4	-19.9
B	30	11.4	17.3	5.9	-19.1	14.2	21.6	7.4	-17.6
	40	14.6	17.3	2.7	-7.4	18.2	21.6	3.4	-6.7
	50	17.6	17.3	-0.3	3.3	22.0	21.6	-0.4	3.2
C	30	17.2	17.3	0.1	-0.3	21.5	21.6	0.1	-0.3
	40	21.5	17.3	-4.2	14.9	26.8	21.6	-5.2	13.9
	50	25.3	17.3	-8.0	28.4	31.7	21.6	-10.1	26.3

**Table 17 – Aggregate impact of Right to Buy sales on registered social landlord finances under option 4**

Scenario	Useful lifetime of assets	(£m, present value) 20% increase				50% increase			
		Rental surplus	Capital receipt	Net impact	Change	Rental surplus	Capital receipt	Net impact	Change
A	30				-				-
		4.5	14.2	9.7	31.0	5.7	17.8	12.1	28.6
	40	6.4	14.2	7.8	24.4	8.0	17.8	9.8	22.4
B	50	8.1	14.2	6.1	17.6	10.2	17.8	7.6	16.1
	30	9.7	14.2	4.5	14.7	12.0	17.8	5.8	13.4
	40	12.4	14.2	1.8	4.7	15.5	17.8	2.3	4.2
C	50	15.0	14.2	0.8	4.3	18.6	17.8	0.8	4.3
	30	14.8	14.2	0.6	1.8	18.4	17.8	0.6	1.8
	40	18.4	14.2	4.2	14.9	23.0	17.8	5.2	13.9
	50	21.7	14.2	7.5	26.3	27.1	17.8	9.3	24.5

6.103 As with the previous options, the impact of this option on local authority and registered social landlord finances is dependant on the scenario being considered. Under scenario A – where social landlords were shown to benefit financially from Right to Buy sales in the baseline option – this option has a negative impact on finances compared to the baseline. The impact is mixed under scenarios B and C but (particularly where properties are assumed to

have a longer remaining useful life) the modelling suggests there are scenarios in which abolishing the Right to Buy may have a positive impact on the finances of local authorities and registered social landlords. This is because for each additional property retained, the rental surplus that will be generated is expected to exceed the capital receipt that would have been received had the property been sold.

6.104 Based on the modelling, the combined impact of the restriction on sales in this option on local authority and registered social landlord finances is estimated to range from -£69.0m to +£54.7m (relative to the baseline) over the 10-year appraisal period. As explained under option 3, the modelling does not consider the residual value of the properties and/or the land on which they are built at the end of the appraisal period. The residual value associated with the properties retained under this option will accrue to the relevant local authority or registered social landlord.

## **Welsh Government**

6.105 As noted above, the Welsh Government reimburses registered social landlords for the discount on Right to Acquire sales. It is estimated there will be between 11 and 14 Right to Acquire sales in 2017-18, this equates to a reimbursement of £88,000 to £112,000 (an additional cost of £16,000 to £40,000 when compared to the baseline). Based on these figures, in the final nine months of the notice period (April 2018 to December 2018), there are expected to be between 8 and 10 Right to Acquire sales with a reimbursement of between £64,000 and £80,000 (+/- £8,000 compared to the baseline). After the one-year notice period, there will be no further Right to Acquire sales and so no further reimbursements. This represents an estimated cost-saving to the Welsh Government of approximately £72,000 per annum from 2019-20.

## **Tenants**

6.106 Where tenants are either ineligible or unable to exercise the Right to Buy their home before the end of the one-year notice period, they will lose that right.

6.107 As in the previous option, tenants who lose the Right to Buy their property could choose to remain in their home and continue to pay rent to their local authority or registered social landlord (as opposed to making mortgage repayments and being responsible for the maintenance of their property) or they could consider purchasing an alternative property in the private housing market. As discussed above, this will be a decision for individual households to consider based on their own circumstances and preferences.

6.108 If a tenant wanted to buy their social home but was not now eligible to do so, they may wish to buy a property in the private sector. The average rent on a social home is £83.06 per week (2016-17) which is £332.00 per month. There is no maintenance and repair to pay as costs are included in the social rent.

6.109 Although it is difficult to capture the breadth of alternatives available in obtaining a property via the housing market, were a tenant to move into a property in the owner-occupied sector, as they could no longer buy their social home, they could, for example, anticipate facing costs based on the average

house price in Wales (Land Registry 2016) of £122,000. With an average deposit of 10% (£12,200), monthly repayments would be around £642.00 (Source: Money Advice Centre), for a standard mortgage period of 25 years. There would also be additional costs – mortgage arrangement fee, survey fee, solicitor's fee, moving costs. Maintenance and repair costs would also need to be included. These costs have not been estimated and are therefore unknown.

6.110 The schemes of assistance set out in paragraph 3.32 are available for eligible applicants to assist with home ownership and, if applicable, could help reduce the cost of purchasing a property.

## **Benefits**

6.111 The main advantage this option would have over option 3 is that existing tenants who are eligible or close to being eligible to buy their home would have a one-year period in which to apply to purchase the property before the Right to Buy is abolished. This would allow them to take appropriate advice, get their finances in order, and obtain a mortgage. As up to three family members can join in the Right to Buy, the process of taking advice needs to be done by all those wishing to participate. If there is an illness, or family crisis, such as bereavement, one year allows some leeway for people to decide what is appropriate for them. A one-year period should not result in people rushing to exercise the Right to Buy, but later regretting their decision.

6.112 As with option 3, this option is expected to prevent the future loss of properties from the social housing sector. However, the one-year notice period means that the number of Right to Buy or Right to Acquire sales prevented would be lower than under option 3. This is due to the effect of the one year notice period before the Right to Buy is ended. Based on the modelling assumptions, the reduction in the number of properties sold (relative to the baseline option) would be between 1,365 and 1,460. As discussed under option 3, the benefit from retaining a property in the social housing sector would only be realised once the existing tenant has moved out.

6.113 Once the one-year notice period has finished, a number of the benefits identified under option 3 will also apply to this option. For example:

- a) The potential to encourage social landlords to invest in new property by removing the risk of losing that property (at a discounted price) within a few years;
- b) Increasing the level of certainty for local authorities and registered social landlords around future rental income streams;
- c) The administrative cost-saving from no longer having to handle Right to Buy and Right to Acquire applications, and
- d) Ensuring there will be no increase in the number of former Right to Buy properties ending up in the private rented sector and subject to a housing benefit claim. This is a potential benefit to the Department for Work and Pensions.

6.114 After the notice period ended, a local authority or registered social landlord may still consider selling a home to a tenant on a voluntary basis, but this is likely to be at the full market value of the property, without any discount. This

would enable local authorities and registered social landlords to manage their housing stock effectively and dispose of any properties of a type, location and/or quality where there is a compelling case for not retaining it as social housing.

## **Option 5: Abolish the Right to Buy and Right to Acquire as with option 4 but in addition, abolish the Right to Buy and Right to Acquire on newly-let social housing two months after Royal Assent**

### **Description**

6.115 This option combines elements of options 2 and 4 – ending the Right to Buy and Right to Acquire on newly-let housing two months following Royal Assent but providing eligible tenants in older properties with a one-year notice period during which they can apply to purchase their home. **This is the preferred option.**

### **Costs**

#### **Transition costs**

#### **Welsh Government**

6.116 There would be a cost to the Welsh Government associated with communicating the change in policy to local authorities, registered social landlords and other relevant bodies across Wales, updating of project and management mechanisms, Ministerial support and communications. In addition, guidance will be required setting out the new policy and identifying the deadline for tenants to apply to exercise their Right to Buy, and it is envisaged a follow-up exercise will be needed prior to expiration of the one year notification period. The estimated cost for this is £57,000 comprised of policy input, increased legal advice over that required for option 2, and broadly similar communications costs. These would be spread over year 1 (2017-18) £42,000 and year 2 (2018-19) £15,000.

#### **Local authorities and registered social landlords**

6.117 The impact of this option is anticipated to be the same as option 4, based on the tenancy numbers and the expectation the number of new social housing properties built by social landlords in the period 2017-20 would remain relatively low.

6.118 As with option 4, there would be a cost to local authorities to inform tenants the Right to Buy scheme was ending. Based on the experience of the first two of the three local authorities which have suspension in place, individual notification to all tenants indicates a cost of approximately £1 per council tenancy and for updating websites, training staff and making any relevant changes to documentation. The cost of this is estimated to be – based on the level of general needs stock of around 73,000 – £73,000 in 2017-18 and half that in the following year.

6.119 The impact of this option on registered social landlords is expected to be similar to that for local authorities for example. – based on a general needs stock of 117,000. registered social landlords will be required to inform their

tenants the Right to Buy and Right to Acquire will be ending at an estimated year one cost of £117,000 in 2017-18 and half that in the succeeding year.

**Table 18 – Summary transition costs for option 5**

	<b>Year 1 2017-18 £</b>	<b>Year 2 2018-19 £</b>	<b>Year 3 2019-20 £</b>	<b>Year 4 2020-21 £</b>	<b>Year 5 2021-22 £</b>
Welsh Government	42,000	15,000	0	0	0
Local authorities	73,000	36,500	0	0	0
Registered social landlords	117,000	58,500	0	0	0
<b>Total</b>	<b>232,000</b>	<b>110,000</b>	<b>0</b>	<b>0</b>	<b>0</b>

Note: There could be an additional cost for the Welsh Government (reimbursement) – see para 6.125

## Modelling Results – financial impact of restriction on sales

### Local authorities

6.120 In terms of sales, the impact of this option on local authorities is assumed to be identical to that of option 4 since the number of new social housing properties built by local authorities in the period 2017-19 is expected to remain low. The impact table from Option 4 (Table 16) is re-produced below for ease of reference.

**Table 19 – Aggregate impact of Right to Buy sales on local authority finances under option 5**

Scenario	Useful lifetime of assets	<b>(£m, present value)</b>							
		<b>20% increase</b>				<b>50% increase</b>			
		Rental surplus	Capital receipt	Net impact	<b>Change</b>	Rental surplus	Capital receipt	Net impact	<b>Change</b>
A	30	5.5	17.3	11.8	-38.0	6.9	21.6	14.7	-35.1
	40	7.7	17.3	9.6	-29.8	9.6	21.6	12.0	-27.4
	50	9.8	17.3	7.5	-21.8	12.2	21.6	9.4	-19.9
B	30	11.4	17.3	5.9	-19.1	14.2	21.6	7.4	-17.6
	40	14.6	17.3	2.7	-7.4	18.2	21.6	3.4	-6.7
	50	17.6	17.3	-0.3	3.3	22.0	21.6	-0.4	3.2
C	30	17.2	17.3	0.1	-0.3	21.5	21.6	0.1	-0.3
	40	21.5	17.3	-4.2	14.9	26.8	21.6	-5.2	13.9
	50	25.3	17.3	-8.0	28.4	31.7	21.6	-10.1	26.3

## Registered social landlords

6.121 As explained under option two, registered social landlords have been investing in new social housing in recent years and are expected to continue with this investment. The abolition of the Right to Buy and Right to Acquire on new-build properties two months after Royal Assent would be likely to have some impact on registered social landlords. As with option two, it is assumed preventing the sale of new build properties reduces the number of Right to Buy and Right to Acquire by 2%. In other words, Right to Buy and Right to Acquire sales from registered social landlords in this option are assumed to be 2% lower during the one-year notice period than under option four.

6.122 Table 19 shows the estimated financial impact of the Right to Buy and Right To Acquire sales in this option on registered social landlords. The change columns present a comparison of the financial impact under this option with that in the 'do nothing', baseline option.

**Table 20 – Aggregate impact of Right to Buy sales on registered social landlord finances under option 5**

Scenario	Useful lifetime of assets	(£m, present value)							
		20% increase				50% increase			
		Rental surplus	Capital receipt	Net impact	Change	Rental surplus	Capital receipt	Net impact	Change
A	30	4.5	14.1	9.6	31.1	5.5	17.6	12.1	28.6
	40	6.3	14.1	7.8	24.4	7.8	17.6	9.8	22.4
	50	8.1	14.1	6.0	17.7	10.1	17.6	7.5	16.2
B	30	9.5	14.1	4.6	14.6	11.9	17.6	5.7	13.5
	40	12.3	14.1	1.8	4.7	15.3	17.6	2.3	4.2
	50	14.8	14.1	0.7	4.4	18.4	17.6	0.8	4.3
C	30	14.6	14.1	0.5	1.9	18.2	17.6	0.6	1.8
	40	18.2	14.1	4.1	15.0	22.8	17.6	5.2	13.9
	50	21.4	14.1	7.3	26.5	26.8	17.6	9.2	24.6

6.123 Based on the modelling, the combined impact of the restriction on sales in this option on local authority and registered social landlord finances is estimated to range from -£69.1m to +£54.9m (relative to the baseline). As has been explained, there is a degree of uncertainty around a number of the variables used in the economic analysis. For this reason a scenario modelling approach incorporating a range of plausible assumptions has been adopted to

estimate the potential impact of the proposal on local authority and registered social landlord finances. It is this scenario modelling approach which has resulted in the broad range in the potential financial impact. In light of the level of uncertainty, the modelling results have been recorded separately in the RIA summary tables (pages 21-23) and have not been included in the headline costs and benefits figures.

6.124 As explained under previous options, the modelling does not include the residual value of the properties and/or the land on which they are built at the end of the appraisal period. For those properties retained under this option, the residual value will accrue to the social landlord.

## **Welsh Government**

6.125 As with option 4, the reimbursement by the Welsh Government to registered social landlords for the discount on Right to Acquire sales is expected to range from £88,000 to £112,000 in 2017-18 before falling to between £64,000 and £80,000 in 2018-19. The reimbursement drops to zero following the abolition of the Right to Acquire at the end of December 2018.

## **Tenants**

6.126 As with option 4, all social sector tenants would lose their Right to Buy or Right to Acquire at the end of the one-year notice period. In this option, those tenants living or moving into new-build social housing would lose the Right to Buy their property within two months of the Bill receiving Royal Assent.

6.127 Tenants could choose to remain in their home and pay rent to the social landlord or they could consider purchasing a property in the private housing market. This aspect was explained in options 3 and 4. Alternative government schemes available to help with the purchase of a home have been discussed earlier in this document (see paragraph 3.32).

6.128 The relatively small number of annual sales forecast in the baseline scenario means that abolishing the Right to Buy is not expected to have a significant impact on the private housing market. At 185 per annum, Right to Buy sales represent approximately 0.5% of total annual residential property transactions in Wales.

## **Benefits**

6.129 The benefits of this option are expected to be broadly similar to those for option 4. The main differences are:

- a) The reduction in the stock of social housing is expected to be marginally lower in this option during the one-year notice period due to the immediate abolition of Right to Buy on new-build property. The modelling suggests that there would be between 1,370 and 1,465 fewer properties sold under Right to Buy under this option than the baseline option;

- b) Abolishing the Right to Buy and Right to Acquire on all new-build social housing with immediate effect may bring forward investment in new social housing.

6.130 As with each of the options, whilst this option limits future reduction in the size of the social housing sector, the direct impact is relatively small in numerical terms but important in terms of the supply of social housing. The 1,370 to 1,465 properties which are retained in the social sector in this option (over the 10-year appraisal period) compared to the baseline represents less than 1% of the current stock.

6.131 As noted above, PPIW<sup>5</sup> estimates 8,700 additional properties will need to be built each year in the period 2011-31 to meet housing demand, of which, 3,500 will need to be in the social sector. While abolishing Right to Buy and Right to Acquire will prevent any further loss of social housing, it is clear that there will need to be continued emphasis on increasing the supply of social sector housing (either through new building programmes or acquisitions) to meet future needs.

### **Summary of the preferred option**

6.132 In demonstrating the distinction between the baseline – option 1 – and option 5, the preferred choice, the key significant factor lies in the principle of the level of security afforded the social housing stock. Continuation under the current situation would see a further reduction of social housing and the critical accommodation resource it provides for those who otherwise could not afford to rent or buy in the housing market. Modelling within the options examined is based on a loss averaging 185 homes per annum (as experienced over the last five years). There is, nevertheless, the potential for a spike in sales driven by the possibility of further suspensions by local authorities and the potential abolition of the Right to Buy and Right to Acquire. Anecdotally this scenario is reflected in an increasing number of enquiries about exercising the Right to Buy, based on these factors.

6.133 In terms of the overall picture, the social housing stock protected by the three local authority suspensions (under the 2011 Measure) currently in place is 81,642 properties out of a total of 234,508 social housing stock. This represents 35% of the total social housing stock. This means the majority of the social housing stock remains vulnerable to further reduction. While there has been a net increase in the supply of social housing in recent years, that increase has been far below the 3,500 additional social sector homes the Public Policy Institute for Wales estimates need to be built each year between 2011 and 2031 to meet the demand for housing.

6.134 Option 2 would only protect newly-let social housing and would result in only a marginal impact on Right to Buy sales. Although it would remove the deterrent to new-supply investment, it would leave the majority of social housing stock vulnerable to further loss. Option 3, whilst satisfying social landlords' desire to abolish the Right to Buy as quickly as practicable and providing the maximum impact in ending the statutory sale of social housing, would not allow tenants a reasonable amount of time to exercise the Right to Buy prior to abolition.

- 6.135 Option 5 achieves the policy intention of protecting social housing from further reduction. At the same time, it would provide reasonable notice of the change, giving eligible tenants a one-year notice period in which to apply to exercise their Right to Buy, should they wish to do so. The option has an advantage over option 4 in that it removes the deterrent to building new social housing by ending the Right to Buy and Right to Acquire on newly-let properties as soon as practicable following Royal Assent. The downside, albeit slight, is that there will be further reductions to the social housing stock during the notice period as a result of eligible tenants exercising their rights.
- 6.136 After the notice period, there would be no further reduction to the social housing stock. The abolition of the Right to Buy will remove the risk of social landlords losing new supply (or newly-acquired) social housing at a discounted price within a short period of time. This should encourage social landlords to invest in new social housing safe in the knowledge that the homes will continue to be available for rent by people in housing need in the current and in future generations. Overall, the proposals in this Bill represent an important contribution to meeting the need of people who are unable to take advantage of the private housing market to secure a safe and affordable home.

## 7. Impact Assessments

7.1 Summary coverage of the individual assessments are provided below; the substantive documents are available on request.

### Competition Assessment

7.2 The Bill will not affect business, or charities and/or the voluntary sector in any ways which raise issues related to competition.

7.3 The proposed change in legislation, if passed, would not impact on competition. The main impact of abolishing the Right to Buy and Right to Acquire would be on social landlords.

The competition filter test	
Question	Answer yes or no
<b>Q1:</b> In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
<b>Q2:</b> In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
<b>Q3:</b> In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
<b>Q4:</b> Would the costs of the regulation affect some firms substantially more than others?	No
<b>Q5:</b> Is the regulation likely to affect the market structure, changing the number or size of firms?	No
<b>Q6:</b> Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
<b>Q7:</b> Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
<b>Q8:</b> Is the sector characterised by rapid technological change?	No
<b>Q9:</b> Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

### Sustainable Development

7.4 Ending the Right to Buy and Right to Acquire will prevent the continuing loss of social housing stock. The retention of social housing will contribute to broader action to address housing supply pressures in order to meet demands and tackle housing waiting lists. See also paragraphs 7.16 to 7.23 in regard to the specific duties in respect of The Well-being of Future Generations (Wales) Act 2015.

## **Equality Impact Assessment**

- 7.5 In drafting the Bill, consideration has been given to the Welsh Ministers' duty under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and to foster good relations between people who share characteristics and those who do not.
- 7.6 An equality impact assessment indicates the new legislation will safeguard social housing thereby benefitting women and black and minority ethnic communities. The 2011 Census showed 54% of households in social housing have a female head of household, which is above the average across all tenures (41%). In the social rented sector, the proportion of heads of household who are from a black and minority ethnic community was slightly higher at 4%, than the average of 3% across all tenures.
- 7.7 Due regard has been given to the principle there should be equality of opportunity for all people and to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. There are not considered to be any negative implications for people with protected characteristics. Given the role social housing plays in society and in helping vulnerable people and those who, for a variety of reasons, are unable to take advantage of housing markets, the proposals are considered to be positive in terms of equality

## **Children's Rights Impact Assessment**

- 7.8 A children's rights impact assessment has been undertaken. Due regard has been given to the United Nations Convention on the Rights of the Child. Data from the 2011 Census shows more lone parent households live in social rented housing than in other tenures. The percentage of lone parent families in social rented housing is around 23%, which is double the percentage of lone parent families across all tenures (11%). Safeguarding social rented housing is expected to benefit families and children. The Joseph Rowntree Foundation considers social housing to be a major contributor to tackling poverty as the targeting of social housing to those most in need is one of the most redistributive of social policies. Several of the Articles in the convention are relevant to housing. The articles which have relevance are: 3, 9, 18, 20, 23, and 27 with 27 having most relevance. Article 27 states: "Children have a right to a standard of living is good enough to meet their physical and mental needs." The Government is committed to helping people who are unable to meet their housing needs through the housing market.

## **Welsh Language Impact Assessment**

- 7.9 Concerns have been expressed in some areas about Welsh speakers being priced out of Welsh-speaking communities by high house prices. It is suggested this is to the detriment of the Welsh language. Social housing provides affordable homes for local people in their communities and is particularly important in rural areas. Over and above building more affordable homes,

protecting existing social housing in local communities assists the availability of affordable housing. Some Welsh-speaking communities in North Wales, for example, are working with their rural housing enabler to develop more affordable housing. Preserving affordable and social housing in Welsh-speaking areas and combining this with a robust approach to local connection is an important way of helping rural Welsh speaking communities to continue to exist and thrive. The 2011 Census indicated the ability to speak Welsh and Welsh language skills was lowest amongst household lead tenants living in social housing. The measures proposed by this Bill complement broader action in all areas to increase housing supply.

## **Rural Impact Assessment**

- 7.10 Nine local authorities are recognised as being rural authorities. These are the Isle of Anglesey, Gwynedd, Powys, Ceredigion, Monmouthshire, Carmarthenshire, Denbighshire, Conwy and Pembrokeshire.
- 7.11 The three national park authorities are located within the rural local areas of Powys, Gwynedd and Pembrokeshire. They are the Brecon Beacons National Park, Snowdonia and Pembrokeshire Coast. On average, between a quarter and a third of all Right to Buy sales are within rural authorities. Specific problems of supply relate to rural authorities. Safeguarding existing social housing stock should benefit them and people in those areas in need of the support provided by social housing. It is recognised among housing associations and developers that it is more complex and more expensive to build new homes in national parks and in rural areas where planning consent out of the urban settlements can be challenging. House prices can be higher in rural areas and there is sometimes competition in North and West Wales with second home owners. For these reasons, safeguarding the existing stock will benefit rural areas.

## **Health and Well being Impact Assessment**

- 7.12 There are likely to be positive health impacts to ending the Right to Buy and the Right to Acquire. A secure, affordable home has significant benefits for people's mental and physical health, wellbeing and quality of life more generally. Welsh Government research undertaken in 2015 estimates that across eight local authorities, around 12.5% of properties sold under Right to Buy and Right to Acquire since 1997 have transferred into the private rented sector and the occupants were in receipt of housing benefit over the five years from 2010-11 to 2014-15. This can place extra costs on households in terms of rent when compared to someone who is in social housing and therefore extra pressure on household incomes.
- 7.13 Private rented properties are generally recognised to often be in a poorer physical condition and to have less efficient heating and energy conservation measures than social housing. Poor housing conditions can have a negative effect on health outcomes particularly for children.

## **Impacts on Privacy**

- 7.14 There are not considered to be any impacts on privacy.

## **Impacts on the voluntary sector**

7.15 There are not considered to be any impacts on the voluntary sector.

## **The Well-being of Future Generations (Wales) Act 2015**

7.16 The proposals to end the Right to Buy and Right to Acquire are consistent with the principles of the Well-being of Future Generations (Wales) Act 2015 which, at its core, has the values of taking a long-term view and preventative action. Ending the Right to Buy looks forward to sustaining the supply of affordable housing for rent by people in housing need in the long term rather than allowing it to be sold off to provide a windfall benefit to the current tenant(s). Many properties sold under the Right to Buy and Right to Acquire subsequently form part of the private housing stock and are re-sold at market value, thereby making them inaccessible to people on modest incomes who need an affordable home for themselves and their families.

7.17 The Act puts a duty on organisations to work together in a collaborative way and for an integrated approach to be taken. Partnership working with housing associations and other housing stakeholders is central to the work on increasing housing supply. The proposal to end the Right to Buy and Right to Acquire earlier on newly-let homes is intended to encourage social landlords to develop new housing safe in the knowledge that they will not be forced to sell their most modern homes to the tenant after only a few years. The overall policy to abolish the Right to Buy and Right to Acquire will ensure that the social housing stock remains accessible and affordable for people in housing need both now and in the future.

## **The social, economic, environmental and cultural wellbeing of Wales**

7.18 Protecting the essential social rented stock from further reduction is based on the sustainable development principle of aiming to ensure the present needs are best met without compromising the ability of future generations to meet their accommodation needs. The removal of rights of the relatively few people eligible to purchase their homes via the Right to Buy is balanced against the commitment to improve the well-being of the majority, including many vulnerable people, who otherwise would be unable to afford a home.

7.19 The Right to Buy and Right to Acquire have been a feature of social housing for many years. They have resulted in the loss of a significant number of homes from the social housing stock. Although in recent years, sales have been relatively low, the social housing stock, which is a significant contributor to tackling poverty, is still being lost at a time of considerable housing supply pressure, which impacts on the ability to assist people whose needs cannot be met by the housing market. Concerns have also been expressed by local authorities which are considering building new social homes. The possibility of a new home being lost as a result of a sale under the Right to Buy well before the end of its economic life is regarded as a disincentive to investing in new homes.

- 7.20 Social housing is a vital component of the overall housing system, providing an essential option for people who are unable to acquire a home for purchase or rent via the private housing market. These include the disadvantaged and vulnerable people, low income households and others who for a variety of reasons cannot afford to buy a home.
- 7.21 The intention behind the proposals in this Bill is to protect the supply of social housing from further erosion when a high level of demand is being experienced at the same time as a supply shortage. The proposal is in line with evidence from the Joseph Rowntree Foundation, which is described in more detail below. The proposal reflects the positive use of social housing policy to tackle poverty. Safeguarding the social housing stock will help ensure as many people as possible have access to a home they can afford. A safe and affordable home provides an anchor for stable family life. It is also the foundation for labour market participation, which helps to tackle worklessness, improves skills and reduces the number of young people who are not in education, employment or training. The standard of our social housing stock helps to ensure conditions are conducive to children's development which contributes to increasing educational attainment. Good standards of accommodation are also a key health determinant and a factor in reducing health inequalities.
- 7.22 As outlined above, concerns have been expressed in some parts of Wales about Welsh speakers being priced out of Welsh-speaking communities by high house prices. It is suggested this is to the detriment of the Welsh language. Social housing provides affordable homes for local people in their communities and is particularly important in rural areas. Over and above building more affordable homes, protecting existing social housing in local communities assists the availability of affordable housing. Some Welsh-speaking communities in North Wales for instance are working with their rural housing enabler to develop more affordable housing. Preserving affordable and social housing in Welsh-speaking areas and combining this with a robust approach to local connection is an important way of helping rural Welsh-speaking communities to continue to exist and thrive.
- 7.23 Overall, there are expected to be positive health and wellbeing impacts to ending the Right to Buy and the Right to Acquire. A secure, affordable, home has significant benefits for people's health, wellbeing and quality of life more generally. Private rented properties are recognised to often be in a poorer physical condition and to have less efficient heating and energy conservation measures than social housing. Poor housing can have a negative effect on health outcomes particularly for children.

## **8. Post-implementation review**

- 8.1 If passed by the National Assembly for Wales, the impact of the legislation will be monitored and reported on, with a bespoke programme of work being put in place to evaluate the impacts over time. This will include the period between enactment and coming into force as well as in subsequent years. A variety of measures will be used, including existing national statistics. The research will reflect the policy intention of the legislation. The Welsh Government currently collects data on the number and type of dwellings and sales of social housing.
- 8.2 The monitoring and evaluation activity will be developed to allow reporting at key intervals; for example, a year after the Bill has been commenced and at appropriate points thereafter.

## Appendix 1 – Sensitivity analysis

As noted in the Regulatory Impact Assessment, there is a high degree of uncertainty surrounding parts of the analysis. The scenario modelling reported in the RIA is a form of sensitivity analysis, providing a range of results based on differing assumptions. This appendix provides a summary of the additional sensitivity analysis that has been undertaken to test some of the other assumptions used in the modelling work.

In this appendix, the baseline results for local authorities are used to demonstrate the impact of changing key assumptions. The baseline results are presented in table A1 (below) for ease of reference.

**Table A1 – Aggregate impact of Right to Buy sales on local authority finances under option 1 (baseline)**

(£m, present value)				
Scenario	Useful lifetime of assets (years)	Rental surplus	Capital receipt	Net impact
A	30	27.9	77.7	49.8
	40	38.3	77.7	39.4
	50	48.4	77.7	29.3
B	30	52.7	77.7	25.0
	40	67.6	77.7	10.1
	50	81.3	77.7	-3.6
C	30	77.3	77.7	0.4
	40	96.8	77.7	-19.1
	50	114.1	77.7	-36.4

### Number of properties sold under the Right to Buy

The modelling in this assessment assumed that, in the baseline scenario, there will be 185 Right to Buy and Right to Acquire sales in each year of the appraisal period. This is broadly equal to the average number of annual sales in the period 2012-13 to 2016-17 less those sales taking place in Swansea, Carmarthenshire, the Isle of Anglesey, Flintshire, Denbighshire and Cardiff (where the Right to Buy scheme is currently suspended).

There are two reasons why this may be an overestimate of the number of sales that will actually take place. Firstly, the impact of the reduction in the maximum discount available may outweigh the impact of the improving economic situation, reducing the number of sales. Secondly, in the intervening period, other local authorities may apply to suspend Right to Buy sales in their area. To reflect this, an alternative scenario in which there are assumed to be 125 Right to Buy and Right to Acquire sales per annum in the baseline option is also considered.

Table A2 shows the aggregate impact of Right to Buy sales in the baseline option on local authority finances when the number of annual Right to Buy sales is reduced from 185 to 125. As would be expected, the scale of the impact is reduced but the general patterns identified in this assessment remain – under scenario A there is a

net financial benefit to local authorities from Right to Buy sales and therefore any policy which restricts/abolishes the Right to Buy scheme will have a negative impact. Under scenarios B and C, the impact is smaller (more neutral) or the reverse of that for scenario A.

**Table A2 – Aggregate impact of Right to Buy sales on local authority finances with reduced annual sales**

(£m, present value)				
Scenario	Useful lifetime of assets (years)	Rental surplus	Capital receipt	Net impact
A	30	18.9	52.5	33.6
	40	25.9	52.5	26.6
	50	32.8	52.5	19.7
B	30	35.6	52.5	16.9
	40	45.6	52.5	6.9
	50	55.0	52.5	-2.5
C	30	52.2	52.5	0.3
	40	65.5	52.5	-13.0
	50	77.1	52.5	-24.6

Increasing the number of annual Right to Buy sales in the baseline option (for example, because impact of the economic recovery outweighs the impact of the reduction in the maximum discount available and any further voluntary suspensions) will increase the scale of the financial impacts but again, would not affect the general findings in the analysis.

The number of Right to Buy sales are not expected to reach a level at which abolition is likely to have a significant impact on the private housing market. Even if Right to Buy sales reached 500 per annum (which is more than double the recent average), these sales would still represent less than 1% of total residential property transactions in Wales in 2016-17.

### **Annual increase in maintenance costs**

The modelling in this assessment assumes repair and maintenance costs increase by 0.3% per annum above the general price level, this reflects the latest ONS Construction Output Price Indices. The financial memorandum for the Bill abolishing the Right to Buy in Scotland assumed repair and maintenance costs would increase in line with general inflation. The rationale for this assumption is that the budget constraints faced by social landlords means expenditure needs to be carefully controlled.

Adopting the Scottish assumption in our modelling increases the rental surplus in each scenario, reducing (or making more negative) the financial impact of net impact of each Right to Buy sale on the social landlord's finances. In one scenario (highlighted in red and bold in table A3), the change is sufficient to reverse the net impact from a small positive to a small negative.

**Table A3 – Aggregate impact of Right to Buy sales on local authority finances with no increase in annual maintenance and repair costs**

(£m, present value)

Scenario	Useful lifetime of assets (years)	Rental surplus	Capital receipt	Net impact
A	30	30.1	77.7	47.6
	40	41.4	77.7	36.3
	50	52.4	77.7	25.3
B	30	54.3	77.7	23.4
	40	69.9	77.7	7.8
	50	84.3	77.7	-6.6
C	<b>30</b>	<b>78.4</b>	<b>77.7</b>	<b>-0.7</b>
	40	98.4	77.7	-20.7
	50	116.1	77.7	-38.4

There are a number of other assumptions in the modelling which affect the net impact calculation. If the annual increase in rents is greater than the 1.5% assumed in the modelling then each future Right to Buy sales would have a less favourable impact on the social landlord's finances because the rental surplus would be higher. In contrast, if house price inflation is greater than the 1.9% assumed in the modelling then each future Right to Buy sale would be expected to have a more favourable impact on the social landlord's finances because the capital receipt would be higher.

### **Market value of a property**

The modelling in this assessment adopted the same average market value of property regardless of the remaining useful economic life of the property. It could be argued that properties with a longer (shorter) remaining useful economic life will have a higher (lower) than average market value. To test the impact of this, those properties with a remaining economic life of 50 years are assumed to have a market value 10% above the average and those properties with a 30-year remaining economic life assumed to have a market value 10% below the average.

As table A4 shows, the impact of making this change is to bring the net impact results within a scenario closer together (for example, within scenario A, there is now little difference in net impact across the useful lifetime of assets). In scenario B, the higher capital receipt received when the property is assumed to have a remaining economic life of 50 years means the net impact of Right to Buy sales in that scenario has turned positive. In contrast, reducing the capital receipt for properties with a useful economic life of 30 years by 10% is sufficient to turn the net impact of Right to Buy sales negative in scenario C.

**Table A4 – Aggregate impact of Right to Buy sales on local authority finances with capital receipt increased/decreased to reflect remaining useful lifetime**

(£m, present value)

Scenario	Useful lifetime of assets (years)	Rental surplus	Capital receipt	Net impact
A	30	27.9	69.2	41.3
	40	38.3	77.7	39.4
	50	48.4	86.2	37.8
B	30	52.7	69.2	16.5
	40	67.6	77.7	10.1
	50	81.3	86.2	4.9
C	30	77.3	69.2	-8.1
	40	96.8	77.7	-19.1
	50	114.1	86.2	-27.9

Adjusting property prices by +/- 10% to 20% would be sufficient to completely remove the difference in the net impact within scenarios.

### **Spike in sales during one-year notice period**

The modelling presented in this assessment assumed there would be a spike in Right to Buy sales of between 20% and 50% during the one-year notice period under options 4 and 5. The final area of sensitivity testing extends this range by considering the impact of there being no spike and a more significant spike in which sales doubled (relative to the baseline).

Table A5 shows how the change in the net impact of Right to Buy sales on local authority finances (compared to the baseline) varies as the assumption about the sales spike changes. The table shows that the greater the assumed spike in sales, so the difference in net impact between option 4 (and option 5) and the baseline option decreases.

**Table A5 - Impact of varying spike in sales on the net impact of sales in option 4 compared to the net impact of sales in the baseline option**

(£m, present value)

Scenario	Useful lifetime of assets (years)	Change in net impact compared to the baseline			
		0%	20%	50%	100%
A	30	-40.0	-38.0	-35.1	-30.3
	40	-31.4	-29.8	-27.4	-23.5
	50	-23.2	-21.8	-19.9	-16.9
B	30	-20.0	-19.1	-17.6	-15.2
	40	-7.8	-7.4	-6.7	-5.5
	50	3.4	3.3	3.2	3.1
C	30	-0.3	-0.3	-0.3	-0.2
	40	15.6	14.9	13.9	12.1
	50	29.7	28.4	26.3	23.0

# Appendix 2: Explanatory Notes

## INTRODUCTION

1. These Explanatory Notes relate to the Abolition of the Right to Buy and Associated Rights (Wales) Bill as introduced on 13 March 2017. They have been prepared by the Education and Public Services Group of the Welsh Government to assist the reader of the Bill. The Explanatory Notes should be read in conjunction with the Bill but are not part of it.

## OVERVIEW OF THE BILL

### Background information

2. The “right to buy” is a scheme established by Part 5 of the Housing Act 1985, to enable eligible local authority tenants to buy their home at a discount. To qualify for the right to buy, a tenant must be a secure tenant. Most local authority tenants will be secure tenants. Other criteria for eligibility are set out in Part 5 of the Housing Act 1985.
3. The “preserved right to buy” is a continuation of the right to buy. If a local authority has sold a property to another landlord (like a housing association) at a time when a secure tenant was living there, the tenant may have the right to buy the property from the new landlord despite not being a secure tenant. This right is known as the preserved right to buy.
4. The preserved right to buy can also apply if a tenant in the position described above subsequently moves to another property owned by the new landlord. Detailed provisions about the preserved right to buy are set out in sections 171A to 171F of the Housing Act 1985.
5. The “right to acquire” is a scheme established by section 16 of the Housing Act 1996. It enables tenants of registered social landlords and private registered providers of social housing to buy their home at a discount. To qualify for the right to acquire, a tenant must be a secure tenant or an assured tenant. Most housing association tenants will be assured tenants.
6. Other provisions about the right to acquire, including criteria for eligibility, are set out in sections 16 to 17 of the Housing Act 1996, and in Part 5 of the Housing Act 1985 (as it applies to the right to acquire). The Housing (Right to Acquire) Regulations 1997 (SI 1997/619) specifies how Part 5 of the Housing Act 1985 applies to the right to acquire.

### Main provisions

7. The Bill makes provision for the following:
  - (a) Provision to abolish the right to buy and the preserved right to buy. The section that abolishes these rights cannot be brought into force earlier than one year after the Bill receives Royal Assent.

- (b) Provision to abolish the right to acquire. The section that abolishes this right cannot be brought into force earlier than one year after the Bill receives Royal Assent.
- (c) Provision to restrict a tenant's ability to exercise the right to buy, the preserved right to buy and the right to acquire until those rights are abolished, if a tenant moves into a home that is new social housing stock. The sections that restrict the exercise of these rights will be brought into force two months after the Bill receives Royal Assent and are subject to certain exceptions. They are intended to encourage social landlords to build or to acquire new homes for rent even before complete abolition of the rights.

## COMMENTARY ON SECTIONS

### Section 1 – Overview

- 8. Section 1 provides an overview of the main provisions of the Bill.
- 9. **Section 2 – Restriction on exercising the right to buy** This section amends the Housing Act 1985. It inserts a new section 121ZA into that Act to restrict the right of secure tenants to exercise the right to buy homes in Wales in certain circumstances.
- 10. As a result of section 2, as a general rule, the right to buy will not be exercisable in relation to a home in Wales unless the home has been let under one of the social tenancies listed in section 121ZA(2) at some point during the six months before section 2 came into force. The Bill calls a home that has been let under any of the listed social tenancies a dwelling-house that is “from previously let social housing stock”. There are exceptions to this general rule, which are set out in section 121ZB .
- 11. The effect of the amendment made by section 2 is that a tenant who moves into a home that is new to the social housing market won't able to exercise the right to buy in respect of that home.
- 12. But time spent in such a home will still qualify for the purposes of the right to buy if the tenant later moves into another home in relation to which the right to buy can be exercised (so long as that happens before the right to buy is abolished by section 6).. In those circumstances, the tenant's right to buy discount won't be affected by the fact that the tenant has spent time in a home in relation to which the right to buy couldn't be exercised.
- 13. Subsection (3) amends section 171B of the Housing Act 1985 to restrict the right to exercise the preserved right to buy where a home is new to the social housing market.

### Section 3 – Exceptions to the restriction on exercising the right to buy

- 14. This section amends the Housing Act 1985. It inserts a new section 121ZB into that Act, which sets out the cases in which the right to buy can still be exercised in relation to a home which isn't from previously let social housing stock, i.e. new social housing stock. If any of the cases apply, or have applied, in respect of a home, the right to buy can be exercised by an eligible tenant despite the restriction in section 2.

15. The first case applies where, after the date on which section 2 comes into force, a court has ordered a tenant with the right to buy to give up possession of their home on certain specified grounds, the tenant has moved into a new home (which is new social housing stock), and the new home is considered suitable alternative accommodation for the purposes of the court order (section 121ZB(1)). The grounds for possession that apply for the purposes of the first case are generally ones where tenants are ordered to give up possession of their home through no fault of their own (e.g. a house is being demolished, or is subject to a redevelopment scheme).
16. The second case is similar to the first case, except that it relates to the preserved right to buy: it applies where, after the date on which section 2 comes into force, a court has ordered a tenant with the preserved right to buy to give up possession of their home on the grounds that there is suitable alternative accommodation available, the tenant has moved into a new home (which is new social housing stock), and the new home is considered suitable alternative accommodation for the purposes of the court order (section 121ZB(2)).
17. The third case addresses a specific scenario that can arise in relation to the preserved right to buy under section 171B(6) of the Housing Act 1985.
18. Under section 171B(6), it is possible for a tenant to continue to have the preserved right to buy if he or she moves home, so long as the landlord remains the same. But section 2(3) of the Bill inserts a new subsection (7) into section 171B of the Housing Act 1985 to restrict the tenant's ability to exercise the preserved right to buy in those circumstances. As a result of section 2(3), as a general rule, if a tenant moves into a home that isn't from previously let housing stock, he or she won't be able to exercise the preserved right to buy even if section 171B(6) applies.
19. The third case (in section 121ZB(3)) provides an exception to that general rule where the tenant moves into the new home after the date on which section 2 comes into force, and the new home has been let by a registered social landlord or a private registered provider of social housing under an assured tenancy (other than a long tenancy) at some point during the six months before section 2 came into force.
20. This provision places tenants with the preserved right to buy who wish to move home in a similar position to tenants with the right to buy or the right to acquire who wish to move home. Further cases in which the right to buy can be exercised in relation to homes that are not from previously let social housing stock can be added by regulations.

#### **Section 4 – Restriction on exercising the right to acquire**

21. This section amends the Housing Act 1996. It inserts a new section 16B into that Act to restrict the right of secure or assured tenants to exercise the right to acquire homes in Wales in certain circumstances.

As a result of section 4, as a general rule, the right to acquire will not be exercisable in relation to a home in Wales unless the home has been let under one of the social tenancies listed in section 16B(2) at some point during the six months before section 4 came into force (the home is “from previously let social housing stock”). As with section 121ZA in the context of the right to buy, there are exceptions to this general rule, which are set out in section 16C

22. The effect of the amendment made by section 4 is that a tenant who moves into a home that is new to the social housing stock won't be able to exercise the right to acquire in respect of that home.
23. But time spent in such a home will still qualify for the purposes of the right to acquire if the tenant moves into another home in relation to which the right to acquire can be exercised (so long as that happens before the right to acquire is abolished by section 6). In those circumstances, the tenant's right to acquire discount won't be affected by the fact that the tenant has spent time in a home in relation to which the right to acquire couldn't be exercised.
24. Section 4(4) amends section 21 of the Housing Act 1996 to add a new subsection (2A). Under section 21(2) of the 1996 Act, the Welsh Ministers are under a duty to make a grant to reimburse a registered social landlord or a private registered provider of social housing in circumstances where the landlord has given a discount to a tenant who has purchased a property which was not subject to the right to acquire, if that tenant was entitled to exercise the right to acquire in relation to another property owned by the landlord.
25. The effect of the new section 21(2A) is that the Welsh Ministers won't be under a duty to make a grant to reimburse such a discount unless the property is from previously let housing stock, or is caught by one of the exceptions set out in section 16C.
26. This means that, if a social landlord has given a tenant a discount voluntarily in relation to a home that is new social housing stock, the Welsh Ministers won't be required to reimburse the landlord even if the tenant had the right to acquire with respect to another property. This brings the provisions in section 21 in line with the new provisions being made to restrict the exercise of the right to acquire with respect to new social housing stock.

### **Section 5 – Exception to the restriction on exercising the right to acquire**

27. This section amends the Housing Act 1996. It inserts a new section 16C into that Act, setting out an exception to the restriction on exercising the right to acquire. If the exception applies, or has applied, in respect of a home, the right to acquire can be exercised by an eligible tenant even if the home is new social housing stock.
28. The exception applies where, after the date on which section 4 comes into force, the court has ordered a tenant with the right to acquire to give up possession of their home on certain specified grounds,, the tenant has moved into a new home (which is new social housing stock), and the new home is considered suitable accommodation for the purposes of the court order.
29. Further exceptions in which the right to acquire can be exercised in relation to homes that are not from previously let social housing stock can be added by regulations.

### **Section 6 – Abolition of the right to buy and the right to acquire**

30. This section abolishes the right to buy (including the preserved right to buy) and the right to acquire in respect of dwellings in Wales.

31. This section also provides for the repeal of the provisions of the Bill which restrict the exercise of those rights, and brings Schedule 1 into effect, which makes consequential amendments.

### **Section 7 – Removal of power to make grants in respect of discounts**

32. This section repeals section 21 of the Housing Act 1996. The effect of the repeal is that the Welsh Ministers will no longer have the power to make grants to registered social landlords and private registered providers of social housing in respect of discounts given by them to tenants who purchase their homes, unless the tenant was exercising the right to acquire.

### **Section 8 – Information for tenants and prospective tenants**

33. This section makes provision for information to be provided to tenants about the effect of this Bill.
34. The Welsh Ministers must publish information which they think will help tenants to understand the effect of the Bill within one month of the coming into force of this section. The Welsh Ministers must take all reasonable steps to provide every qualifying landlord and other relevant bodies 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. Qualifying landlords must provide the information to tenants within two months of the coming into force of section 8, or within one month of receiving the information published by the Welsh Ministers, whichever is earlier.

### **Section 9 – Consequential amendments etc.**

35. This section gives the Welsh Ministers power to make any supplemental, incidental, consequential, transitory, transitional or saving provision considered necessary or expedient in consequence of, or for the purpose of giving full effect to the provisions of this Bill. Regulations made under this section can amend, repeal or revoke provisions made in legislation, including provisions of this Bill, and can make amendments that are considered necessary as a result of the Renting Homes (Wales) Act 2016 having been brought into force. For example, once the Renting Homes (Wales) Act provisions have been brought into force, certain tenancies will cease to exist in Wales, and references in legislation to secure tenancies, assured tenancies etc. will need to be amended to refer to secure contracts.

### **Section 10 – Regulations**

36. This section provides for regulations made under section 9 to be made by statutory instrument. Regulations which amend primary legislation will need to be made by the affirmative procedure. Other regulations will be made by the negative procedure (apart from orders which bring provisions of this Bill into force, for which no procedure applies).

### **Section 11 – Coming into force**

37. This section provides that section 8 (information for tenants), amongst others, will come into force on the day this Bill receives Royal Assent.
38. 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 2 months after the Bill receives Royal Assent.

39. Sections 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.

**Section 12 - Short title**

40. The short title of the Bill on becoming an Act will be 'the Abolition of the Right to Buy and Associated Rights (Wales) Act 2017'.

### Appendix 3: Index of Standing Order Requirements

Standing Order		Section	Pages/Paragraphs
26.6(i)	State that in his or her view the provisions of the Bill would be within the legislative competence of the Assembly	Member's Declaration	Pg. 2
26.6(ii)	Set out the policy objectives of the Bill	Chapter 3 - Purpose and intended effect of the legislation	The policy objectives are set out at Pg. 10-11-para's 3.25 – 3.28
26.6(iii)	Set out whether alternative ways of achieving the policy objectives were considered and, if so, why the approach taken in the Bill was adopted	Part 2 – impact assessment	Alternative options are set out at Pg's 22 and 26 - 58. para's 6.10 – 6.135
26.6(iv)	Set out the consultation, if any, which was undertaken on: <ul style="list-style-type: none"> <li>(a) The policy objectives of the Bill and the ways of meeting them;</li> <li>(b) The detail of the Bill, and</li> <li>(c) A draft Bill, either in full or in part (and if in part, which parts)</li> </ul>	Chapter 4 - Consultation	A summary of the consultation is set out on Pg. 14 -17 para's 4.1 – 4.21
26.6(v)	Set out a summary of the outcome of that consultation, including how and why any draft Bill has been amended	Chapter 4 - Consultation	A summary of the consultation is set out on Pg. 14 -17 para 4.1 – 4.7
26.6(vi)	If the Bill, or part of the Bill, was not previously published as a draft, state the reasons for that decision	Chapter 4 - Consultation	Pg. 14 para 4.1 sets out the rationale for the consultation on the proposals contained in the Bill
26.6 (vii)	Summarise objectively what each of the provisions of the Bill is intended to do (to the extent that it requires explanation or comment) and give other information necessary to explain the effect of the Bill	Appendix 2 – Explanatory Notes	A summary of provisions is set out in the Explanatory Notes Pg. 69 - 71
26.6 (viii)	Set out the best estimates of: <ul style="list-style-type: none"> <li>(a) The gross</li> </ul>	Part 2 – impact assessment	The costs associated with modelling scenarios for option 1 are

	<p>administrative, compliance and other costs to which the provisions of the Bill would give rise;</p> <p>(b) The administrative savings arising from the Bill;</p> <p>(c) Net administrative costs of the Bill's provisions;</p> <p>(d) The timescales over which such costs and savings would be expected to arise; and</p> <p>(e) On whom the costs would fall</p>		<p>summarised in Tables 3 (p. 31) 4 (p.32) 5 (p. 33) 6 (p.34) 7 (p. 34) and the detail of how these costs were calculated is set out in para's in Chapter 6</p> <p>Option 1 para's 6.25 – 6.49</p> <p>Option 2 p.37 para's 6.56 – 6.65</p> <p>Option 3 pgs 41 - 46 para's 6. 71 – 6.88</p> <p>Option 4 pgs. 48 – 52 para's 6.98 – 6.110</p> <p>Option 5 pgs. 53 – 56 para's 6.116 – 6.128</p> <p>Administrative and transitional costs for the options are set out on</p> <p>Option 2 pgs. 37-39 para's 6.56 – 6.59</p> <p>Option 3 pgs. 41 – 42 para's 6.71 – 6.73</p> <p>Option 4 pgs. 48-49 para's 6.98 – 6.98</p> <p>Option 5 pg's.53-54 para's 6.116 – 6.119</p>
26.6(ix)	Any environmental and social benefits and dis-benefits arising from the Bill that cannot be quantified financially	Part 2 – impact assessment	<p>A summary of benefits for Option 2 is set out at pgs. 40-41 para 6.66 - 6.69</p> <p>Option 3 p.46 para's 6.89 – 6.95</p> <p>Option 4 p. 52 para's 6.111 – 6.114</p> <p>Option 5 p.56 para's 6.129 – 6.131</p>
26.6(x)	<p>Where the Bill contains any provision conferring power to make subordinate legislation, set out, in relation to each such provision:</p> <p>(a) The person upon whom, or the body upon which, the power is conferred and the form in which the power is to be exercised;</p> <p>(b) Why it is appropriate to delegate the power; and</p>	Chapter 5 - Power to make subordinate legislation	A summary table of powers to make subordinate legislation is set out at Pgs. 19 - 21 Table 2

	(c) The Assembly procedure (if any) to which the subordinate legislation made or to be made in the exercise of the power is to be subject, and why was considered appropriate to make it subject to that procedure (and not to make it subject to any other procedure)		
26.6(xi)	Where the Bill contains any provision charging expenditure on the Welsh Consolidated Fund, incorporate a report of the Auditor General setting out his or her views on whether the charge is appropriate	Chapter 6 - Regulatory Impact Assessment	Pg. 24, para 6.1 sets out that the Bill does not charge expenditure on the Welsh Consolidated Fund
26.6B	Where provisions of the Bill are derived from existing primary legislation, whether for the purposes of amendment or consolidation, the Explanatory Memorandum must be accompanied by a table of derivations that explain clearly how the Bill relates to the existing legal framework	The requirement in Standing Order 26.6B for a Table of Derivations is not applicable as the Bill is a standalone piece of legislation and does not derive from existing legislation for the purposes of amendment or consolidation	
26.6C	Where the Bill proposes to significantly amend existing legislation, the Explanatory Memorandum must be accompanied by a schedule setting out the wording of existing legislation amended by the Bill, and setting out clearly how that wording is amended by the Bill	Appendix 4 – Schedule of amendments	

## Appendix 4

### Schedule of amendments

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

##### AMENDMENTS TO BE MADE BY THE ABOLITION OF THE RIGHT TO BUY AND ASSOCIATED RIGHTS (WALES) BILL

This document is intended to show how the provisions of the Abolition of the Right to Buy and Associated Rights (Wales) Bill as they applied in relation to Wales on 22 February 2017 would look as amended by the Abolition of the Right to Buy and Associated Rights (Wales) Bill (if enacted as introduced on 13 March 2017).

Material to be deleted by the Abolition of the Right to Buy and Associated Rights (Wales) Bill is in strikethrough, e.g. ~~omitted material looks like this~~. Material to be added by the Abolition of the Right to Buy and Associated Rights (Wales) Bill is underlined, e.g. added material looks like this. References to the relevant amending provisions of the Bill are provided in the right hand column on each page.

A number of related provisions from the Act, although not being amended, are included to aid understanding of the proposed amendments.

#### **Warning**

This text has been prepared by officials of the Department for Education and Public Services of the Welsh Government. Although efforts have been taken to ensure that it is accurate, it should not be relied on as a definitive text of the Act or the Bill.

It has been produced solely to help people understand the effect of the Abolition of the Right to Buy and Associated Rights (Wales) Bill. It is not intended for use in any other context.

Please note: this document has been prepared solely to assist people in understanding the Abolition of the Right to Buy and Associated Rights (Wales) Bill. It should not be relied on for any other purpose.

*Amending  
section of the  
Abolition of  
the Right to  
Buy and  
Associated  
Rights (Wales)  
Bill*

## **The Housing Act 1985 (c68)**

### *Section 2*

#### **121 Circumstances in which the right to buy cannot be exercised**

(1) The right to buy cannot be exercised if the tenant is subject to an order of the court for possession of the dwelling-house.

(2) The right to buy cannot be exercised if the person, or one of the persons, to whom the right to buy belongs—

(a) has made a bankruptcy application that has not been determined or has a bankruptcy petition pending against him,

(b) . . .

(c) is an undischarged bankrupt,

(d) has made a composition or arrangement with his creditors the terms of which remain to be fulfilled, or

(e) is a person in relation to whom a moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986).

(3) The right to buy cannot be exercised at any time during the suspension period under an order made under section 121A in respect of the secure tenancy.

#### **121ZA Restriction on exercising the right to buy in Wales**

(1) The right to buy in Wales cannot be exercised in respect of a dwelling-house in Wales unless –

(a) the dwelling-house is from previously let social housing stock, or

(b) any of the cases specified in section 121ZB applies, or has applied, in respect of the dwelling-house.

(2) For the purposes of this Part –

(a) a dwelling-house is from previously let social housing stock if, at any time during the period of six months ending with the relevant date, it has been –

(i) let under a secure tenancy,

(ii) let under an introductory tenancy (within the meaning given by Chapter 1 of Part 5 of the Housing Act 1996 (c. 52)),

(iii) let under a demoted tenancy (within the meaning given by section 143A of the Housing Act 1996), or

(iv) a qualifying dwelling-house in relation to the preserved right to buy (see section 171B);

(b) “relevant date” means the day on which section 2 of the Abolition of the Right to Buy and Associated Rights (Wales) Act 2017 comes into force.

(3) This section does not affect the computation of any period under Schedule 4.

### *Section 3*

#### **121ZB Exceptions to the restrictions on exercising the right to buy in Wales**

(1) The first case applies in respect of a dwelling-house (the “exempted dwelling”) if  
=

(a) after the relevant date, the court orders a person who has the right to buy to give up possession of a dwelling-house,

(b) the order is made on any of the grounds set out in Parts 2 or 3 of Schedule 2,

(c) the person becomes the tenant of the exempted dwelling, and

(d) the exempted dwelling is suitable alternative accommodation for the purposes of the order.

(2) The second case applies in respect of a dwelling-house (the “exempted dwelling”) if—

(a) after the relevant date, the court orders a person who has the preserved right to buy (see section 171B) to give up possession of a dwelling-house,

(b) the order is made—

(i) on Ground 9 in Schedule 2 to the Housing Act 1988 (c. 50) (possession of dwelling-house let under assured tenancy on grounds that there is suitable alternative accommodation), or

(ii) in pursuance of section 98(1)(a) of the Rent Act 1977 (c. 42) (limitation on recovery of possession of dwelling houses let under certain tenancies)

(c) the person becomes the tenant of the exempted dwelling, and

(d) the exempted dwelling is suitable alternative accommodation for the purposes of the order.

(3) The third case applies in respect of a dwelling-house (the “exempted dwelling”) if—

(a) the exempted dwelling has, at some time during the period of six months ending with the relevant date, been let by a registered social landlord or a private registered provider of social housing under an assured tenancy (other than a long tenancy),

(b) after the relevant date, a person having the preserved right to buy in respect of another dwelling-house (“the relevant dwelling-house”) becomes the tenant of the exempted dwelling, and

(c) the exempted dwelling becomes the relevant dwelling-house for the purposes of section 171B(6).

(4) The Welsh Ministers may, by regulations made by statutory instrument, amend this section by adding additional cases.

(5) Regulations under subsection (4) may not be made unless a draft of the statutory instrument containing the regulations has been laid before and approved by a resolution of the National Assembly for Wales.”

*Section 2(3)*

### **171B Extent of preserved right: qualifying persons and dwelling-houses**

(1) A person to whom this section applies has the preserved right to buy so long as he occupies the relevant dwelling-house as his only or principal home, subject to the following provisions of this Part.

(1A) A person to whom this section applies ceases to have the preserved right to buy if the tenancy of a relevant dwelling-house becomes a demoted tenancy by virtue of a demotion order under section 6A of the Housing Act 1988.

(2) References in this Part to a “qualifying person” and “qualifying dwelling-house”, in relation to the preserved right to buy, are to a person who has that right and to a dwelling-house in relation to which a person has that right.

(3) The following are the persons to whom this section applies—

- (a) the former secure tenant, or in the case of a joint tenancy, each of them;
- (b) a qualifying successor as defined in subsection (4); and
- (c) a person to whom a tenancy of a dwelling-house is granted jointly with a person who has the preserved right to buy in relation to that dwelling-house.

(4) The following are qualifying successors for this purpose—

(a) where the former secure tenancy was not a joint tenancy and, immediately before his death, the former secure tenant was under an assured tenancy of a dwelling-house in relation to which he had the preserved right to buy, a member of the former secure tenant's family who acquired that assured tenancy under the will or intestacy of the former secure tenant or in whom that assured tenancy vested under section 17 of the Housing Act 1988 (statutory succession to assured tenancy);

(aa) where the former secure tenancy was not a joint tenancy, a member of the former secure tenant's family to whom the former secure tenant assigned his assured tenancy of a dwelling-house in relation to which, immediately before the assignment, he had the preserved right to buy;

(b) a person who becomes the tenant of a dwelling-house in pursuance of—

(i) a property adjustment order under section 24 of the Matrimonial Causes Act 1973, or

(ii) an order under Schedule 1 to the Matrimonial Homes Act 1983 or Schedule 7 to the Family Law Act 1996 transferring the tenancy, or

(iii) a property adjustment order under section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c), or

(iv) an order under paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents), or

(v) an order under Part 2 of Schedule 5, or a property adjustment order under paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc),

in place of a person who had the preserved right to buy in relation to that dwelling-house.

(5) The relevant dwelling-house is in the first instance—

(a) in relation to a person within paragraph (a) of subsection (3), the dwelling-house which was the subject of the qualifying disposal;

(b) in relation to a person within paragraph (b) of that subsection, the dwelling-house of which he became the statutory tenant or tenant as mentioned in subsection (4);

(c) in relation to a person within paragraph (c) of subsection (3), the dwelling-house of which he became a joint tenant as mentioned in that paragraph.

(6) If a person having the preserved right to buy becomes the tenant of another dwelling-house in place of the relevant dwelling-house (whether the new dwelling-house is entirely different or partly or substantially the same as the previous dwelling-house) and the landlord is the same person as the landlord of the previous dwelling-house or, where that landlord was a company, is a connected company, the new dwelling-house becomes the relevant dwelling-house for the purposes of the preserved right to buy.

For this purpose “connected company” means a subsidiary or holding company within the meaning of section 1159 of the Companies Act 2006.

(7) Nothing in subsection (6) gives a person the right to exercise the preserved right to buy in respect of a dwelling-house in Wales unless –

(a) the dwelling-house is from previously let social housing stock (see section 121ZA), or

(b) any of the cases specified in section 121ZB applies, or has applied, in respect of the dwelling-house.

**The Housing Act 1996 c52**

**Section 4**

**16 Right of tenant to acquire dwelling**

(1) Subject to section 16B, the tenant of a dwelling in Wales has a right to acquire the dwelling if—

(a) the landlord is a registered social landlord or a private registered provider of social housing,

(b) the tenancy is—

(i) an assured tenancy, other than an assured shorthold tenancy or a long tenancy, or

(ii) a secure tenancy,

(c) the dwelling was provided with public money and has remained in the social rented sector, and

(d) the tenant satisfies any further qualifying conditions applicable under Part V of the Housing Act 1985 (the right to buy) as it applies in relation to the right conferred by this section.

(2) For this purpose a dwelling shall be regarded as provided with public money if—

(a) it was provided or acquired wholly or in part by means of a grant under section 18 (social housing grant),

(b) it was provided or acquired wholly or in part by applying or appropriating sums standing in the disposal proceeds fund of a registered social landlord (see section 25), or

(c) it was acquired by a registered social landlord or a private registered provider of social housing after the commencement of this paragraph on a disposal by a public sector landlord at a time when it was capable of being let as a separate dwelling.

(3) A dwelling shall be regarded for the purposes of this section as having remained within the social rented sector if, since it was so provided or acquired—

(a) the person holding the freehold interest in the dwelling has been either a registered social landlord, a private registered provider of social housing or a public sector landlord; and

(b) any person holding an interest as lessee (otherwise than as mortgagee) in the dwelling has been—

(i) an individual holding otherwise than under a long tenancy; or

(ii) a registered social landlord, a private registered provider of social housing or a public sector landlord.

(3A) In subsection (3)(a) the reference to the freehold interest in the dwelling includes a reference to such an interest in the dwelling as is held by the landlord under a lease granted in pursuance of paragraph 3 of Schedule 9 to the Leasehold Reform, Housing and Urban Development Act 1993 (mandatory leaseback to former freeholder on collective Enfranchisement).

(4) A dwelling shall be regarded for the purposes of this section as provided by means of a grant under section 18 (social housing grant) if, and only if, [the Welsh Ministers] when making the grant notified the recipient that the dwelling was to be so regarded.

The Welsh Ministers shall before making the grant inform the applicant that they propose to give such a notice and allow him an opportunity to withdraw his application within a specified time.

#### **16A Extension of section 16 to dwellings funded by grants under section 27A [NB THIS SECTION IS NOT IN FORCE IN WALES]**

(1) Section 16 applies in relation to a dwelling in Wales (“a funded dwelling”) provided or acquired wholly or in part by means of a grant under section 27A (grants to bodies other than registered social landlords) with the following modifications.

(2) In section 16(1) the reference to a registered social landlord includes a reference to any person to whom a grant has been paid under section 27A.

(3) In section 16(2) and (4) any reference to section 18 includes a reference to section 27A.

(4) For the purposes of section 16 a funded dwelling is to be regarded as having remained within the social rented sector in relation to any relevant time if, since it was acquired or provided as mentioned in subsection (1) above, it was used—

(a) by the recipient of the grant mentioned in that subsection, or

(b) if section 27B applies in relation to the grant, by each person to whom the grant was, or is treated as having been, paid, exclusively for the purposes for which the grant was made or any other purposes agreed to by the Welsh Ministers.

(5) In subsection (4) “relevant time” means a time when the dwelling would not be treated as being within the social rented sector by virtue of section 16(3).

### **16B Restriction on exercising the right to acquire**

(1) But the right to acquire cannot be exercised in respect of a dwelling unless—

(a) the dwelling is from previously let social housing stock, or

(b) section 16C applies, or has applied, in respect of the dwelling.

(2) For the purposes of this Part—

(a) a dwelling is from previously let social housing stock if, at any time during the period of six months ending with the relevant date—

(i) it has been let by a registered social landlord or a private registered provider of social housing under an assured tenancy (other than a long tenancy), or

(ii) it has been let under a secure tenancy, and

(b) “relevant date” means the day on which section 4 of the Abolition of the Right to Buy and Associated Rights (Wales) Act 2017 comes into force.

(3) This section does not affect the computation of any period under Schedule 4 to the Housing Act 1985.

### *Section 5*

### **16C Exception to restriction on exercising the right to acquire**

(1) This section applies in respect of a dwelling (the “exempted dwelling”) if—

(a) after the relevant date, the court has ordered a person to give up possession of a dwelling,

(b) the order is made—

(i) on any of the grounds set out in Parts 2 or 3 of Schedule 2 to the Housing Act 1985 (c. 68) (discretionary grounds for possession of dwelling let under secure tenancy), or

(ii) on Ground 9 in Schedule 2 to the Housing Act 1988 (c.50) (possession of dwelling let under assured tenancy on grounds that there is suitable alternative accommodation),

(c) the person becomes the tenant of the exempted dwelling, and

(d) the exempted dwelling is suitable alternative accommodation for the purposes of the order.

(2) The Welsh Ministers may, by regulations made by statutory instrument, amend this section by making provision for further circumstances in which this section applies in respect of a dwelling.

(3) Regulations under subsection (2) may not be made unless a draft of the statutory instrument containing the regulations has been laid before and approved by a resolution of the National Assembly for Wales.

#### *Section 4*

### **21 Purchase grant in respect of other disposals**

(1) The Welsh Ministers may make grants to registered social landlords and private registered providers of social housing in respect of discounts on disposals by them of dwellings in Wales to tenants otherwise than in pursuance of the right conferred by section 16.

(2) The Welsh Ministers shall make such a grant if the tenant was entitled to exercise the right conferred by section 16 or by section 180 of the Housing and Regeneration Act 2008 in relation to another dwelling of the landlord or provider (as the case may be).

The amount of the grant in such a case shall not exceed the amount of the discount to which the tenant would have been entitled in respect of the other dwelling.

(2A) But subsection (2) does not apply in respect of a discount on a disposal of a dwelling unless—

- (a) the dwelling is from previously let social housing stock, or
- (b) section 16C applies, or has applied, in respect of the dwelling.

(3) The Welsh Ministers shall specify in relation to grants under this section—

- (a) the procedure to be followed in relation to applications for grant;
- (b) the circumstances in which grant is or is not to be payable;
- (c) the method for calculating, and any limitations on, the amount of grant; and
- (d) the manner in which, and time or times at which, grant is to be paid.

(4) In making a grant under this section, the Welsh Ministers may provide that the grant is conditional on compliance by the registered social landlord or private registered provider of social housing with such conditions as the Welsh Ministers may specify.

## Appendix 5: References

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- <sup>1</sup> Welsh Government, Fourth Assembly, Programme for Government target
- <sup>2</sup> Welsh Government 2011-16 Programme for Government
- <sup>3</sup> Joseph Rowntree Foundation, 'The Links between Housing and Poverty', research report, February 2013
- <sup>4</sup> House of Commons Communities and Local Government scrutiny of the UK Government's Housing and Planning Bill (now the Housing and Planning Act 2016) <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmcomloc/370/37002.htm>
- <sup>5</sup> Welsh Government (2012) Housing White Paper WG15346 'Homes for Wales' Cardiff: Welsh Government
- <sup>6</sup> Public Policy Institute for Wales (September 2015), 'Future Need and Demand for Housing in Wales'
- <sup>7</sup> Welsh Government (2015) WG24055 'The Future of the Right to Buy and Right to Acquire – A White Paper for Social Housing' Cardiff: Welsh Government
- <sup>8</sup> Welsh Government (2015) WG24055 'The Future of the Right to Buy and Right to Acquire – A White Paper for Social Housing' Cardiff: Welsh Government
- <sup>9</sup> <http://gov.wales/consultations/housing-and-regeneration/future-of-right-to-buy/?status=closed&lang=en>
- <sup>10</sup> Welsh Assembly (2008), 'A financial evaluation of the right to buy', Centre for Housing Policy, University of York
- <sup>11</sup> Disney, R. (February 2015) The right to buy public housing in Britain: a welfare analysis. IFS Briefing Note BN 162. .
- <sup>12</sup> Economic and Fiscal Outlook, Office for Budgetary Responsibility, (November 2015).
- <sup>13</sup> Sprigings, N. and Smith, D. Unintended consequences: Local Housing Allowance meets the Right to Buy. People, Place & Policy Online (2012): 6/2, pp. 58-75
- <sup>14</sup> Holmans, A and Monk, S (2010) Housing need and demand in Wales 2006 - 2026
- <sup>15</sup> Public Policy Institute for Wales (September 2015), 'Future Need and Demand for Housing in Wales'
- <sup>16</sup> Scottish Government website <http://www.gov.scot/Topics/Statistics/Browse/Housing-Regeneration/HSfS/Sales>