

Report on the Statutory Instrument Consent Memorandum for the Social Housing (Regulation) Act 2023 (Consequential and Miscellaneous Amendments) Regulations 2024

February 2024



1. Background

1. The UK Government laid a draft of The Social Housing (Regulation) Act 2023 (Consequential and Miscellaneous Amendments) Regulations 2024¹ (the Regulations) before the UK Parliament on 18 January 2024.
2. Standing Order 30A states that a member of the government must lay a Statutory Instrument Consent Memorandum in relation to any statutory instrument, or a draft statutory instrument, laid before the UK Parliament by UK Ministers which makes provision (“relevant provision”) in relation to Wales amending primary legislation within the legislative competence of the Senedd.
3. On 19 January 2024, Julie James MS, the Minister for Climate Change (the Minister), laid before the Senedd a Statutory Instrument Consent Memorandum (the Memorandum)² for the Regulations, in accordance with Standing Order 30A.
4. On the same day, the Minister wrote to us to notify us of the Memorandum.³
5. The Welsh Government has scheduled a debate on 27 February 2024 to consider a motion to seek the Senedd’s agreement to the inclusion of a relevant provision in the Regulations.⁴

2. The Statutory Instrument Consent Memorandum

6. The Regulations make minor changes to various pieces of legislation in relation to the regulation of social housing. In particular, the Regulations make amendments to the *Housing and Regeneration Act 2008* (the 2008 Act), in consequence of the *Social Housing (Regulation) Act 2023* (the 2023 Act).
7. The changes to the 2008 Act are needed to reflect changes made by the 2023 Act. For example:

¹ [The Social Housing \(Regulation\) Act 2023 \(Consequential and Miscellaneous Amendments\) Regulations 2024 \(draft\)](#)

² Welsh Government, [Statutory Instrument Consent Memorandum: The Social Housing \(Regulation\) Act 2023 \(Consequential and Miscellaneous Amendments\) Regulations 2024](#), 19 January 2024

³ [Letter from the Minister for Climate Change](#), 19 January 2024

⁴ [Senedd Cymru: Business Statement and Announcement](#), 6 February 2024

- Section 237 of the of the 2008 Act originally included *two* cases where an award of compensation might be payable by a private registered provider of social housing. Compensation was payable where *either* of the two cases applied. The 2023 Act amended section 237 by adding two *new* cases where compensation might arise. Compensation is now payable where *any* of the four cases applies. The original reference to “either” case in section 237 is no longer appropriate because there are now more than two cases, so these Regulations change “either” to “any”.
- The 2023 Act inserted new definitions for “housing ombudsman”, “English body” and “emergency remedial action” in the 2008 Act. The Regulations simply add those definitions to the index of defined terms in the 2008 Act.

8. The Regulations to which the Memorandum relates are subject to the draft affirmative procedure.

9. In the Memorandum, the Minister confirms that the Welsh Government considers that the amendments to the 2008 Act amend primary legislation within the legislative competence of the Senedd.⁵

10. Although Part 2 of the 2008 Act concerns the social housing regulatory regime in England and has limited practical effect in Wales, the Minister states that:

“The English regulatory regime applies to social housing providers based in England, of which a small number own or manage social housing units in Wales (approximately 500 units in total). As such, the amendments make provision in relation to Wales insofar as they apply to that small number of English-based RPs who have housing stock in Wales.”⁶

11. In paragraphs 14–17 of the Memorandum, the Minister sets out why the Welsh Government considers that it is appropriate for the Regulations to make these provisions, stating:

“14. As outlined in the LCMs laid in relation to the passage of the Social Housing (Regulation) Act 2023, I considered it appropriate to recommend that the Senedd give consent to

⁵ Memorandum, paragraph 9

⁶ Memorandum, paragraph 9

the provisions of that Act, which had the aim of improving the regulation of registered providers of social housing based in England.

15. As set out in those LCMs and above, although Part 2 of the HRA 2008 concerns the social housing regulatory regime in England and has limited practical effect in Wales, the amendments to HRA 2008 in the Act and this Instrument affect Wales insofar as they apply to the small number of English based RPs who have housing stock in Wales.

16. My view is that the proper functioning of that Act, as supported by this Instrument, will have a generally positive impact on the experiences of the tenants of the approximately 500 units of social housing in Wales which are owned or managed by registered providers subject to the regulatory regime for social housing in England.

17. Therefore, it is my view that it is appropriate to deal with these provisions in this Instrument.”⁷

3. Committee consideration

12. We considered the Memorandum at our meeting on 5 February 2024.⁸

Our view

13. We are content with the Memorandum.

14. We note that the Welsh Government has scheduled a debate on 27 February 2024 to consider a motion to seek the Senedd's agreement to the inclusion of a relevant provision in the Regulations.

Conclusion 1. We welcome the Welsh Government's intention to seek the Senedd's agreement to the inclusion of a relevant provision in The Social Housing (Regulation) Act 2023 (Consequential and Miscellaneous Amendments) Regulations 2024.

⁷ Memorandum, paragraphs 14–17

⁸ [Legislation, Justice and Constitution Committee](#), 5 February 2024