



Housing and Planning Act 2016

2016 CHAPTER 22

PART 4

SOCIAL HOUSING IN ENGLAND

CHAPTER 5

INSOLVENCY OF REGISTERED PROVIDERS OF SOCIAL HOUSING

Restrictions on other insolvency procedures

104 Winding-up orders

- (1) This section applies if a person other than the Secretary of State petitions for the winding-up of a registered provider that is—
- (a) a company,
 - [^{F1}(aa) a limited liability partnership,]
 - (b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014, or
 - (c) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.
- (2) The court may not exercise its powers on a winding-up petition unless—
- (a) notice of the petition has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since that notice was given, or
 - (b) the Regulator of Social Housing has waived the notice requirement in paragraph (a).

[^{F2}(2A) A notice under subsection (2) must—

- (a) be given in writing,
- (b) be signed by, or on behalf of, the petitioner,
- (c) specify the date the petition was presented, and

Changes to legislation: *Housing and Planning Act 2016, Section 104 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (d) contain a copy of the petition.
- (2B) Subsection (2C) applies if a person gives a notice purporting to be a notice under subsection (2) but which does not meet the requirements of any (or all) of paragraphs (b), (c) or (d) of subsection (2A).
- (2C) The Regulator of Social Housing may, by notice in writing to the petitioner, treat the purported notice as notice given under subsection (2)(a) (and a purported notice so treated will be taken as having been given at the time the purported notice was given).]
- (3) If an application for a housing administration order in relation to the registered provider is made to the court in accordance with section 99 before a winding-up order is made on the petition, the court may exercise its powers under section 100 (instead of exercising its powers on the petition).
- (4) The Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (2)(a).
- (5) The Regulator of Social Housing may waive the notice requirement under subsection (2)(a) only with the consent of the Secretary of State.
- (6) References in this section to the court's powers on a winding-up petition are to—
- (a) its powers under section 125 of the Insolvency Act 1986 (other than its power of adjournment), and
 - (b) its powers under section 135 of the Insolvency Act 1986.

Textual Amendments

- F1** S. 104(1)(aa) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 1 para. 5](#); S.I. 2024/437, reg. 2(w)(ii)
- F2** S. 104(2A)-(2C) inserted (1.4.2024) by [Social Housing \(Regulation\) Act 2023 \(c. 36\)](#), s. 46(3), [Sch. 2 para. 2](#); S.I. 2024/437, reg. 2(x)
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Commencement Information

- I1** S. 104 in force at 5.7.2018 by [S.I. 2018/805](#), [reg. 3\(a\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 95(1)(ia) inserted by [2023 c. 36 Sch. 1 para. 2](#)
- s. 100(7)(aa) inserted by [2023 c. 36 Sch. 1 para. 3](#)
- s. 172(1)(a) words renumbered as s. 172(1)(a) by [2017 c. 20 s. 26\(8\)\(a\)\(i\)](#)
- s. 172(1)(b) inserted by [2017 c. 20 s. 26\(8\)\(a\)\(ii\)](#)