

**Explanatory Memorandum to the Housing (Wales) Measure 2011
(Consequential Amendments to Subordinate Legislation) Order 2012**

This Explanatory Memorandum has been prepared by the Housing Directorate and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Housing (Wales) Measure 2011 (Consequential Amendments to Subordinate Legislation) Order 2012.

Huw Lewis AM

Minister for Housing, Regeneration and Heritage

9 August 2012

1. Description

This Order makes consequential amendments to subordinate legislation on the right to buy and related rights (the Housing (Preservation of Right to Buy)

Regulations 1993 (S.I 1993/2241), the Housing (Extension of Right to Buy) Order 1993 (S.I. 1993/2240), the Housing (Right to Acquire) Regulations 1997 (S.I 1997/619) and the Housing (Right to Buy) (Information to Secure Tenants) (Wales) Order 2005 (S.I 2005/2681)) following the commencement of Part 1 (Suspension of the Right to Buy and Related Rights) of the Housing (Wales) Measure 2011 (“the Measure”).

2. Matters of special interest to the Constitutional Affairs Committee

None

3. Legislative Background

This Order is made pursuant to Section 34 of the Housing (Wales) Measure 2011. Section 34 gives the Welsh Ministers power to make provision as they consider appropriate in consequence of, or for giving full effect to, any provision made by Part 1 of the Measure. They may also make provision as they consider appropriate for applying or extending any provision made by this Part to any provision about or connected with a right related to the right to buy. These powers include, but are not limited to, powers to make provision which amends subordinate legislation. Under section 89(2), the Order is subject to the negative procedure.

4. Purpose & intended effect of the legislation

This Order will make consequential amendments to subordinate legislation, and three of the four SIs which are being amended modify Part 5 of the Housing Act 1985 in certain circumstances as they apply to the right to buy and related rights. Section 1 of the Housing (Wales) Measure 2011 enables a local housing authority to make an application to the Welsh Ministers for a direction to suspend the Right to Buy and Related Rights in its area for a period of up to five years if within the 6 months preceding the application the authority has completed a consultation exercise under section 2 and in light of that exercise, and having considered any other relevant information, the authority concludes that the condition described in section 1(2) exists (ie the housing pressure condition).

New Section 122A (inserted by section 31 of the Measure into the Housing Act 1985) sets out the effect on claims to exercise the right to buy and related rights (if a claim is submitted during the period when the Welsh Ministers have decided to consider the local housing authority’s (LHA) application for a direction to suspend those rights). The claim will be ‘stayed’ unless withdrawn by the tenant under section 122(3) of the Housing Act 1985. If the Welsh Ministers have not granted or rejected an application within 6 months from when they decided to consider the application the stay is lifted on the day after the end of that period.

New Section 122B (inserted by section 32 of the Measure into the Housing Act 1985) (suspension of the Right to buy in parts of Wales) states that where a direction applies to a secure tenant of a dwelling-house to which a direction applies, the tenant may not claim to exercise the right to buy under section 122.

The Schedule to the Housing (Right to Buy) (Information to Secure Tenants) (Wales) Order 2005 is being amended to include that a LHA must give information to secure tenants about the effect of a suspension of the Right to Buy.

5. Consultation

No consultation has taken place as this Order makes consequential technical amendments.

6. Regulatory Impact Assessment (RIA)

No Regulatory Impact Assessment has been completed as this Order makes consequential technical amendments and imposes no costs on the public sector, private sector, charities or voluntary sectors. In addition, the Order has no impact on the statutory duties set out in sections 77 to 79 of the Government of Wales Act 2006 or on the statutory partners referred to in sections 72 to 75 of the 2006 Act.