

## **The Right to Adequate Housing (Wales) Bill**

An Act to make provision to give further effect in Wales to the right to adequate housing as set out in Article 11(1) of the United Nations Covenant on Economic, Social and Cultural Rights, and for connected purposes.

### **PART 1 – THE RIGHT TO ADEQUATE HOUSING AND RELEVANT AUTHORITIES**

#### **The Right to Adequate Housing**

1. In this Act the ‘right to adequate housing’ means the right to adequate housing guaranteed by Article 11 of the United Nations Covenant on Economic, Social and Cultural Rights (the ‘Covenant’), as set out in Schedule 1 of this Act.
2. On commencement of this Act the right to adequate housing will be part of Welsh law.

#### **Relevant Authorities**

3. A relevant authority for the purpose of this Act are:
  - a. The Welsh Ministers when exercising housing functions.
  - b. Local housing authorities as defined by the Housing (Wales) Act 2014 when exercising functions under that Act.

### **PART 2 – PROMOTING THE RIGHT TO ADEQUATE HOUSING**

#### **The Due Regard Duty**

4. A relevant authority must, when exercising any function mentioned in section 3(a) or 3(b), have due regard to the right to adequate housing.
5. A relevant authority when having due regard as required by this Act must take into account:
  - a. The Preamble to the Covenant.
  - b. Any relevant General Comment issued by the United Nations Committee on Economic, Social and Cultural Rights (the ‘UN Committee’).
  - c. Any relevant Concluding Observation or Recommendation made by the UN Committee subsequent to examination of the UK State Party under Part II of the Covenant.

#### **A Housing Rights Scheme**

6. The Welsh Ministers must make a Housing Rights Scheme (the ‘Scheme’) setting out the arrangements they have made, or propose to make, for the purposes of discharging

their duty under section 4.

7. The Scheme must be made, published and laid before the Welsh Parliament no later than 6 months from the date this Act comes into force.

8. The Welsh Ministers may remake the Scheme at any time but must review, and if they consider it appropriate, remake the Scheme within three years of the date on which the first Scheme and any subsequent Scheme is published.

a. If the Welsh Ministers decide to remake the Scheme at any time they must lay the remade Scheme before the Welsh Parliament

9. Before making or remaking the Scheme the Welsh Ministers must:

a. Publish a draft of the Scheme they propose to make.

b. Consult with the Equality and Human Rights Commission on the Scheme they propose to make.

c. Consult with any other stakeholders the Welsh Ministers consider appropriate.

10. The Scheme may include such matters as the Welsh Ministers consider appropriate but must include a procedure for a Housing Impact Assessment to be carried out on any proposal for legislation or policy or budgetary allocation which is likely to have a direct or indirect impact on housing in Wales.

a. A Housing Impact Assessment in accordance with this section may be carried out at the same time as any other impact assessment the Welsh Ministers carry out and may be integrated with that assessment.

b. A Housing Impact Assessment on a proposal for legislation must be laid with any Bill that the Welsh Ministers lay before the Welsh Parliament, and may be in the form of an integrated impact assessment.

### **Reporting on Progress**

11. The Welsh Ministers must publish and lay before the Welsh Parliament a Compliance Report on how they have complied with their duty under section 4.

a. A Compliance Report may be published as part of any report the Welsh Ministers publish on housing in Wales or as a separate report and must be laid before the Welsh Parliament.

b. The first Compliance Report must be published no later than 3 years after the coming into force of the duty under section 4 and thereafter periodically on or before the end of each succeeding period of three years from the date of any

previous Compliance Report.

### **PART 3 – PREVENTING ACTS INCOMPATIBLE WITH THE RIGHT TO ADEQUATE HOUSING AND REDRESS**

#### **Unlawful Acts**

12. It is unlawful for a relevant authority, when exercising a devolved function, to act in manner which is incompatible with the right to adequate housing.

13. For the avoidance of doubt an act as mentioned in section 12 includes a failure to act.

14. Any relevant authority which is compelled to act in a manner which is incompatible with the right to adequate housing by primary legislation will not commit an unlawful act under section 12.

15. Whether a relevant authority commits an unlawful act is a matter to be decided by a court.

#### **Enforcement**

16. Any person who claims to be a person affected by an unlawful act under section 12 may bring proceedings before a court or tribunal or rely on the claimed unlawful act as a defence in any action against them by a relevant authority.

17. Where proceedings brought under this Part are to be dealt with by way of judicial review the persons listed below have standing to bring proceedings:

- a. Any person affected or likely to be affected directly or indirectly by the claimed unlawful act.
- b. The Equality and Human Rights Commission.
- c. Any person or body with sufficient interest in the subject matter of the proceedings

18. In addition to any other matter which it considers relevant, a court called upon to determine whether a relevant authority has committed an unlawful act must take into account those matters set out below:

- a. Any relevant General Comment issued by the UN Committee.
- b. Any relevant Concluding Observation or Recommendation made by the UN Committee subsequent to examination of the UK State Party under Part II of the Covenant.
- c. The impact of the claimed unlawful act on those affected.
- d. Whether the act or omission which it is claimed is an unlawful act is

proportionate taking account of all relevant matters, including the public interest in Wales.

### **Redress and Remedies for an Unlawful Act**

19. In relation to any act which the court finds is, or would be an unlawful act it may grant such relief to the person affected by the unlawful act as it considers just and appropriate.

20. When granting relief under section this Act a court may grant:

a. Any relief, remedy, or order that is within the power of a court to make in civil proceedings in England and Wales.

b. Damages for an unlawful act in order to afford just satisfaction to the victim.

21. Where a court is satisfied that damages under this Act will provide just satisfaction to the victim it must award damages, irrespective of whether any other relief or remedy is contemplated or awarded, unless there are strong and compelling reasons why such an award should not be made.

### **Schedule 1**

International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27

#### *Article 11*

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.