



Housing and Regeneration Act 2008

2008 CHAPTER 17

PART 2

REGULATION OF SOCIAL HOUSING

CHAPTER 3

REGISTRATION

Introduction

110 Overview

This Chapter provides for the establishment of a register of providers of social housing.

111 The register

- (1) The regulator shall maintain a register of providers of social housing.
- (2) The regulator shall make the register available for inspection by the public.

Eligibility

112 Eligibility for registration

- (1) An English body is eligible for registration if—
 - (a) it satisfies the following conditions, and
 - (b) it does not fall within the exceptions in section 113.
- (2) Condition 1 is that the body—
 - (a) is a provider of social housing in England, or
 - (b) intends to become a provider of social housing in England.

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- (3) Condition 2 is that the body satisfies any relevant criteria set by the regulator as to—
 - (a) its financial situation,
 - (b) its constitution, and
 - (c) other arrangements for its management.
- (4) Before setting criteria the regulator must consult—
 - (a) the HCA,
 - (b) one or more bodies appearing to it to represent the interests of registered providers, and
 - (c) one or more bodies appearing to it to represent the interests of tenants.

113 Local authority non-registrable bodies

- (1) This section sets out the exceptions to section 112(1).
- (2) Exception 1 is a local housing authority.
- (3) Exception 2 is a county council.
- (4) Exception 3 is a person controlled by an authority within Exception 1 or 2.
- (5) The Secretary of State may make regulations defining when a person is controlled by an authority for the purpose of Exception 3.
- (6) The definition may be expressed by reference to a definition for the time being given in a document identified by regulations under section 21(2)(b) of the Local Government Act 2003 (c. 26) (accounting practices for local authorities).

114 Registration of local authorities

- (1) The Secretary of State may by order—
 - (a) repeal section 113, or
 - (b) amend it so as to permit the registration of specified classes of local authority.
- (2) The Secretary of State may by order require the regulator to register—
 - (a) a specified local authority, or
 - (b) a specified class of local authority.
- (3) Registration under subsection (2)—
 - (a) takes effect in accordance with any provision of the order about timing or other procedural or incidental matters,
 - (b) does not require an application for registration, and
 - (c) may apply to a local authority whether or not it is eligible for registration by virtue of subsection (1).
- (4) If the Secretary of State thinks it necessary or desirable in connection with the registration of local authorities, the Secretary of State may by order—
 - (a) provide for a provision of this Part or any other enactment not to apply in relation to registered local authorities;
 - (b) provide for a provision of this Part or any other enactment to apply with specified modifications in relation to registered local authorities;
 - (c) amend a provision of this Part or any other enactment.

- (5) In this section—
- (a) “local authority” means an authority or person to whom section 113 applies or has applied, and
 - (b) “registered local authorities” means authorities or persons who are registered, registrable or to be registered as a result of an order under subsection (1) or (2) above.
- (6) Before making an order under this section the Secretary of State shall consult—
- (a) any authority or person likely to be affected by it, and
 - (b) such other persons as the Secretary of State thinks fit.

115 Profit-making and non-profit organisations

- (1) Each entry in the register shall designate the body registered as either—
- (a) a non-profit organisation, or
 - (b) a profit-making organisation.
- (2) A body is a non-profit organisation if it is a registered or non-registrable charity.
- (3) A body is also a non-profit organisation if it satisfies the following conditions.
- (4) Condition 1 is that the body—
- (a) does not trade for profit, or
 - (b) is prohibited by its constitution from issuing capital with interest or dividend at a rate exceeding that prescribed under section 1(1)(b) of the Housing Associations Act 1985 (c. 69).
- (5) Condition 2 is that a purpose of the body is the provision or management of housing.
- (6) Condition 3 is that any other purposes of the body are connected with or incidental to the provision of housing.
- (7) The Secretary of State may make regulations providing that a specified purpose is to be, or not to be, treated as connected with or incidental to the provision of housing.
- (8) A body which is not a non-profit organisation under subsection (2) or (3) is a profit-making organisation.
- (9) If the regulator thinks that what was a profit-making organisation has become a non-profit organisation, the regulator must change the registered designation accordingly.

Procedure

116 Entry

- (1) The regulator shall register anyone who—
- (a) is eligible for registration, and
 - (b) applies to be registered.
- (2) The regulator may make provision about—
- (a) the form of an application;
 - (b) the information to be contained in it or provided with it;

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- (c) the manner in which an application is to submitted;
 - (d) the consequences of failure to comply with provision under paragraphs (a) to (c).
- (3) This section is subject to section 117 (fees).
- (4) Once entered a body remains registered unless and until removed under section 118 or 119.
- (5) It shall be presumed for all purposes that a person entered in the register is eligible for registration while the registration lasts (irrespective of whether and why the person is later removed from the register).

117 Fees

- (1) The regulator may make initial registration conditional upon payment of a fee.
- (2) The regulator may make continued registration conditional upon payment of an annual fee.
- (3) The regulator shall—
- (a) prescribe the amount of a fee, and
 - (b) make provision about the periods during which and in respect of which annual fees are payable.
- (4) The regulator may set different fees, and make different provision, for different cases or circumstances.
- (5) Fees must be set in accordance with principles which the regulator prepares and publishes and which are designed to ensure that so far as is reasonably practicable—
- (a) fee income matches expenditure on the performance of functions,
 - (b) each fee is reasonable and proportionate to the costs to which it relates, and
 - (c) actual or potential registered providers can see the relationship between the amount of a fee and the costs to which it relates.
- (6) The principles—
- (a) shall provide for section 95(3) to be disregarded for the purpose of subsection (5)(a), and
 - (b) may provide for specified expenditure or potential expenditure under section 95 or otherwise to be disregarded for the purpose of subsection (5)(a).
- (7) Principles do not have effect until approved by the Secretary of State.
- (8) In preparing (or revising) the principles the regulator shall consult persons appearing to the regulator to represent the interests of fee-payers.
- (9) The regulator’s accounts shall show—
- (a) fees received, and
 - (b) fees outstanding.

118 De-registration: compulsory

- (1) The regulator may remove from the register a body which the regulator thinks—
- (a) is no longer eligible for registration,

- (b) has ceased to carry out activities, or
 - (c) has ceased to exist.
- (2) Before removing a body under subsection (1)(a) or (b) the regulator must—
- (a) take all reasonable steps to give the body at least 14 days' notice, and
 - (b) consider any representations it makes in that period.
- (3) After removing a body under subsection (1)(a) or (b) the regulator must take all reasonable steps to notify the body.

119 De-registration: voluntary

- (1) A registered provider may ask the regulator to remove it from the register.
- (2) The regulator may comply with a request—
- (a) on the grounds that the registered provider no longer is or intends to be a provider of social housing in England,
 - (b) on the grounds that the registered provider is subject to regulation by another authority whose control is likely to be sufficient, or
 - (c) on the grounds that the registered provider meets any relevant criteria for de-registration set by the regulator.
- (3) Before deciding whether or not to comply, the regulator must consult such local authorities in whose area the registered provider acts as it thinks appropriate.
- (4) The regulator shall not comply with a request by a non-profit registered provider if it thinks that removal is sought with a view to enabling the registered provider to distribute assets to members.
- (5) In deciding whether or not to comply, the regulator must (in particular) have regard to—
- (a) any conditions imposed in connection with disposal consents given to the registered provider under Chapter 5, and
 - (b) any conditions imposed in connection with financial assistance given to the registered provider under any enactment.
- (6) Having decided whether or not to remove the registered provider the regulator must notify—
- (a) the provider, and
 - (b) any authority consulted.
- (7) The regulator shall publish criteria set for the purposes of subsection (2)(c).

120 Notice

- (1) As soon as is reasonably practicable after registering or de-registering a body the regulator shall notify—
- (a) in the case of a registered charity, the Charity Commission,
 - (b) in the case of an industrial and provident society, the Financial Services Authority, and
 - (c) in the case of a registered company (whether or not also a registered charity), the registrar of companies for England and Wales.

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- (2) A notice of registration shall specify whether the person registered is designated as a non-profit or profit-making organisation.
- (3) If the designation changes, the regulator shall notify any person notified of the registration.
- (4) A person to whom notice is given under this section must keep a record of it.

121 Appeal

- (1) A body may appeal to the High Court against a decision of the regulator—
 - (a) to refuse to register it,
 - (b) to de-register it, or
 - (c) to refuse to de-register it.
- (2) The regulator shall not de-register a body while an appeal is pending.
- (3) The Secretary of State may by order provide for the First-tier Tribunal to have jurisdiction under this section instead of the High Court.