
STATUTORY INSTRUMENTS

2008 No. 2361

The Housing (Right to Manage) (England) Regulations 2008

PART 1

GENERAL PROVISIONS

Citation, commencement and application

1.—(1) These Regulations may be cited as the Housing (Right to Manage) (England) Regulations 2008 and shall come into force on 1st October 2008.

(2) These Regulations apply in relation to houses and authorities in England only.

Partial revocation of the Housing (Right to Manage) Regulations 1994

2. Subject to the transitional provisions set out in Part 6, the Housing (Right to Manage) Regulations 1994(1) are revoked in so far as they relate to houses and local authorities in England.

Interpretation

3. In these Regulations—

“the 1994 Regulations” means the Housing (Right to Manage) Regulations 1994;

“acceptance date” means the date on which a tenant management organisation receives the notice under regulation 11(2)(a) that an authority has accepted its proposal notice;

“approved assessor” means a person approved by the Secretary of State for the purposes of assessing the competence of tenant management organisations under regulation 14(1);

“approved assessor service” means a person designated by the Secretary of State to appoint an approved assessor on the application of a tenant management organisation under regulation 14(1);

“area” in relation to a tenant management organisation, means the area specified in its constitution in accordance with regulation 4(1)(b);

“authority” means the local housing authority on which a proposal notice is served;

“commencement date” means the date on which these Regulations come into force;

“competence” refers to the competence of a tenant management organisation to exercise the management functions set out in the feasibility study;

“house”(2) includes—

- (a) part of a house;
- (b) land let together with a house; and
- (c) land held for a purpose related to the house;

(1) [S.I.1994/627](#).

(2) “House” is defined for the purposes of Part 2 of the Housing Act 1985, in section 56.

- “feasibility study” means the study described in regulation 13;
- “management functions” has the same meaning as in section 27 of the Housing Act 1985;
- “management offer” means the offer an authority is required to make under regulation 15(1);
- “proposal notice” means a notice which complies with regulation 9;
- “support” means the provision or financing by an authority of office accommodation, facilities and training;
- “tenant” means a person who holds a secure tenancy (within the meaning of section 79 of the Housing Act 1985), or other tenancy of a house from an authority; and
- “TMO agreement” means an agreement required to be made between an authority and a tenant management organisation under regulation 16.

Definition and general duties of tenant management organisations

4.—(1) A tenant management organisation, referred to in the following provisions of these Regulations as a TMO, is an organisation which satisfies the following conditions⁽³⁾ —

- (a) it has a constitution, available in written form;
 - (b) its constitution specifies an area in relation to which it seeks to enter into a TMO agreement with an authority;
 - (c) its constitution provides that any tenant of a house in that area may become a member of the TMO;
 - (d) its constitution provides that, in conducting its affairs, the TMO must avoid any unlawful discrimination;
 - (e) its constitution provides that the affairs of the TMO must be conducted either—
 - (i) by the members of the TMO at a general meeting; or
 - (ii) by a committee or board of directors elected by members of the TMO.
- (2) For the purposes of these Regulations, a TMO—
- (a) is not disqualified from being a TMO if its constitution contains provision for matters other than those specified in paragraph (1); and
 - (b) does not cease to be a TMO if its constitution is at any time amended to contain such provision.
- (3) In exercising its functions under these Regulations, a TMO—
- (a) must act in accordance with the provisions of its constitution relevant to the exercise of its functions under these Regulations; and
 - (b) must have regard to any guidance provided from time to time by the Secretary of State relevant to the exercise of its functions under these Regulations.

Agreement for extension of time

5.—(1) Where any person is required or authorised to exercise any function under these Regulations within a specified period, the TMO and the authority concerned may by agreement before the expiry of that period, extend the period for a further specified period.

(2) But this does not apply to regulation 16(3) (authority to submit copy of management agreement to Secretary of State within 14 days of entering into the agreement).

⁽³⁾ See section 27AB(8) of the Housing Act 1985.

Security of ballot

6. Any ballot held under these Regulations must be organised so that the vote cast by any individual is kept secret.

Written communications

7. Any requirement under these Regulations to make, prepare, provide or send a notification, request, referral, report, plan, offer or other communication, is a requirement to do so in writing.

Disputes between authorities and TMOs

8.—(1) Where an authority and a TMO cannot resolve a dispute that has arisen between them concerning the application or interpretation of any provision of these Regulations or the TMO agreement, either party may refer the matter to an arbitrator agreed between them or, in default of agreement, appointed by the Secretary of State.

(2) In making the referral described in paragraph (1), the authority and the TMO must have regard to any guidance provided from time to time by the Secretary of State as to the procedure and conduct of the arbitration.