
STATUTORY INSTRUMENTS

2023 No. 753

The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023

PART 2

The Responsible Actors Scheme

CHAPTER 2

Membership of the scheme

Invitation by the Secretary of State to apply for membership

13.—(1) In this regulation—

- (a) “E” is a person whom the Secretary of State considers is likely to satisfy the criteria in regulation 7 or 8 and does not fall within regulation 6(b);
- (b) “D” is the designated person in accordance with paragraph (3);
- (c) “C” is a person invited to apply to become a member of the scheme in accordance with paragraphs (2), (4) or (5).

(2) Subject to paragraphs (3) to (6), the Secretary of State must give notice to E inviting E to apply to become a member of the scheme.

(3) Where E is a member of a group and the Secretary of State considers that there is more than one person in the group who is likely to satisfy the criteria in regulation 7 or 8 and does not fall within regulation 6(b), the Secretary of State must direct that only one of those persons is for the time being to be invited to apply to become a member of the scheme (“the designated person”, D).

(4) Where paragraph (3) applies the Secretary of State must give notice to D inviting D to apply to become a member of the scheme.

(5) Where a person in E’s group which is not eligible under regulation 6 has entered into a Self Remediation Contract before the date on which these Regulations come into force, subject to paragraph (6), the Secretary of State must give notice inviting the following persons to apply to become a member of the scheme—

- (a) the person who has entered into a Self Remediation Contract, and
- (b) either E or, where paragraph (3) applies, D,

and must accept such an application by either the person invited under sub-paragraph (a) or the person invited under sub-paragraph (b).

(6) Where, before the date of the notice referred to in paragraph (5), the person falling within paragraph (5)(a) gives notice to the Secretary of State that they intend to apply to become a member of the scheme, the Secretary of State may direct that only that person is for the time being to be invited to apply to become a member of the scheme, and accordingly is not required by paragraph (5) to give a notice to any person under paragraph (5)(b).

(7) The notice given under paragraphs (2) or (4) must contain a statement that unless C complies with the conditions in regulation 14, the Secretary of State must include the name of C, and the names of persons controlled by C, on the prohibitions list.

(8) Any notices given under paragraph (5) must contain a statement that unless each person to whom a notice is given complies with the conditions in regulation 14, the Secretary of State must include the name of any person falling within paragraph (5)(b), or the person who would have been invited to join the scheme under that paragraph if notice had not been dispensed with under paragraph (6), and the names of persons controlled by that person, on the prohibitions list.

Commencement Information

II Reg. 13 in force at 4.7.2023, see [reg. 1\(1\)](#)

Application for membership following invitation

14.—(1) In this regulation—

- (a) “F” is a person invited to apply to become a member of the scheme in accordance with regulation 13(2) or (4);
- (b) “G” is a person invited to apply to become a member of the scheme in accordance with regulation 13(5)(a);
- (c) “H” is a person invited to apply to become a member of the scheme in accordance with regulation 13(5)(b), or, for the purposes of paragraph (3), is the person who would have been invited to join the scheme under regulation 13(5)(b) if notice had not been dispensed with under regulation 13(6).

(2) F must, within 60 days beginning with the date of the notice given under regulation 13(2) or (4), unless that period is extended under paragraph (12)—

- (a) enter into a Self Remediation Contract (if they have not already done so) and submit an application for membership to the Secretary of State in accordance with paragraph (11); or
- (b) give notice to the Secretary of State that neither F nor any body corporate in the same group as F is eligible to join the scheme and evidence to support that view must accompany that notice;

and if F does not do so, then with effect from the date that period expires—

- (i) F will be treated as a person who is eligible to join the scheme but has not joined, and
- (ii) the name of F and the names of persons controlled by F must be included on the prohibitions list.

(3) Where the notice to the person in regulation 13(5)(b) is dispensed with in accordance with regulation 13(6), G must, within 60 days beginning with the date of the notice given under regulation 13(5)(a), unless that period is extended under paragraph (12), submit an application for membership to the Secretary of State in accordance with paragraph (11) and if G does not do so then with effect from the date that period expires—

- (a) H will be treated as a person who is eligible to join the scheme but has not joined, and
- (b) the name of H and the names of persons controlled by H must be included on the prohibitions list.

(4) Where the notice to the person in regulation 13(5)(b) is not dispensed with in accordance with regulation 13(6), within 60 days beginning with the date of the notices given under regulation 13(5), unless that period is extended under paragraph (12)—

- (a) either—

- (i) G must submit an application for membership to the Secretary of State in accordance with paragraph (11); or
 - (ii) H must enter into a Self Remediation Contract (if they have not already done so) and submit an application for membership to the Secretary of State in accordance with paragraph (11); or
- (b) both G and H must give notice to the Secretary of State that neither H nor any body corporate in the same group as them is eligible to join the scheme and evidence supporting that view must accompany that notice;
- and if G and H do not do so, then with effect from the date that period expires—
- (i) H will be treated as a person who is eligible to join the scheme but has not joined, and
 - (ii) the name of H and the names of persons controlled by H must be included on the prohibitions list.
- (5) Where the Secretary of State receives notice under paragraph (2)(b) or (4)(b), the Secretary of State must determine—
- (a) in the case of a notice under paragraph (2)(b), whether F or, where relevant, any other body corporate in the same group as F, is eligible to join the scheme;
 - (b) in the case of a notice under paragraph (4)(b), whether H or, where relevant, any other body corporate in the same group as H is eligible to join the scheme.
- (6) The Secretary of State may request that the person giving the notice under paragraph (2)(b) or (4)(b), or any body corporate in the same group as that person, provide any further information which the Secretary of State requires to make a determination under paragraph (5). A request under this paragraph must—
- (a) be by notice in writing;
 - (b) specify the further information which the Secretary of State requires; and
 - (c) specify a time by which the information must be provided.
- (7) If a person requested to provide information under paragraph (6) does not provide the specified information within the period specified in the notice, the determination under paragraph (5) must be treated as a determination that F or H, as applicable, is eligible and paragraph (8) will apply.
- (8) Where—
- (a) following the giving of a notice under paragraph (2)(b), the Secretary of State determines that F is eligible to join the scheme (including where paragraph (7) applies)—
 - (i) the Secretary of State must give notice in writing to F of that determination, and
 - (ii) to join the scheme, F must enter into a Self Remediation Contract (if they have not already done so) and submit an application for membership in accordance with paragraph (11) within 30 days beginning with the date of the notice of the determination, unless that period is extended under paragraph (12);
 - (b) following the giving of a notice under paragraph (4)(b), the Secretary of State determines that H is eligible to join the scheme (including where paragraph (7) applies)—
 - (i) the Secretary of State must give notice in writing to H of that determination (and may give notice to G of the determination), and
 - (ii) to join the scheme, H must enter into a Self Remediation Contract (if they have not already done so) and submit an application for membership in accordance with paragraph (11) within 30 days beginning with the date of the notice of the determination, unless that period is extended under paragraph (12).

(9) Where the Secretary of State determines that F or, where applicable, H, is not eligible to join the scheme, but that a different body corporate in the same group is eligible (“the eligible body corporate”), the Secretary of State must—

- (a) direct that the eligible body corporate is for the time being to be invited to apply to become a member of the scheme, and
- (b) give notice of his determination to the eligible body corporate,

and the eligible body corporate must enter into a Self Remediation Contract (if they have not already done so) and submit an application for membership in accordance with paragraph (11), within 30 days beginning with the date of the notice of the determination unless that period is extended under paragraph (12).

(10) The notice given under paragraph (9) must contain a statement that unless the eligible body corporate takes the action provided for in that paragraph, the Secretary of State must include the name of the eligible body corporate, and the names of persons controlled by the eligible body corporate, on the prohibitions list.

(11) An application for membership must—

- (a) be made in writing,
- (b) set out the date on which the applicant entered into a Self Remediation Contract, and
- (c) contain such other information as the Secretary of State may direct.

(12) The Secretary of State may extend any time period specified in this regulation whether or not the Secretary of State receives a request to do so, save that the Secretary of State may not extend any time period after it has already expired.

Commencement Information

I2 Reg. 14 in force at 4.7.2023, see [reg. 1\(1\)](#)

Request for an invitation to apply for membership

15.—(1) If a person (“R”) considers they are likely to satisfy the criteria in regulation 7 or 8, and does not fall within regulation 6(b), but neither R nor any other person in the same group as R has received a notice under regulation 13(2), (4) or (5), R may request that the Secretary of State invite R to apply to become a member of the scheme.

(2) Where R makes a request under paragraph (1), the Secretary of State must treat R as though R is the person referred to as E in regulation 13 and must proceed in accordance with regulations 13 and 14.

Commencement Information

I3 Reg. 15 in force at 4.7.2023, see [reg. 1\(1\)](#)

Applications for volunteers

16.—(1) If a person (“V”) considers they are likely to satisfy the criteria in regulation 9, and does not fall within regulation 6(b), but neither V nor any other person in the same group as V has received a notice under regulation 13(2), (4) or (5), V may apply to the Secretary of State for a determination as to whether V satisfies the criteria in regulation 9, providing the Secretary of State with evidence of the application of those criteria to V.

(2) Subject to paragraph (7), if the Secretary of State determines that V satisfies the criteria in regulation 9, the Secretary of State must—

- (a) give notice in writing to V of that determination, and
- (b) notify V that V must submit an application for membership to the Secretary of State in accordance with paragraph (5).

(3) The notice referred to in paragraph (2)(b) must contain the statement that if V joins the scheme, and V's membership is later revoked, the Secretary of State must include V's name, and the names of persons controlled by V, on the prohibitions list.

(4) Where V receives a notice under paragraph (2)(b), to join the scheme V must, within 60 days beginning with the date of the notice unless that period is extended under paragraph (6), enter into a Self Remediation Contract (if they have not already done so) and submit an application for membership in accordance with paragraph (5).

(5) An application for membership must—

- (a) be made in writing,
- (b) set out the date on which the applicant entered into a Self Remediation Contract, and
- (c) contain such other information as the Secretary of State may direct.

(6) The Secretary of State may extend any time period specified in this regulation whether or not the Secretary of State receives a request to do so, save that the Secretary of State may not extend any time period after it has already expired.

(7) A person may not apply for membership under this regulation where the person or a person in their group satisfies the criteria in regulation 7 or 8.

Commencement Information

14 Reg. 16 in force at 4.7.2023, see [reg. 1\(1\)](#)

Late application for membership

17.—(1) A person (“L”) who, in accordance with regulation 14—

- (a) has been determined to be eligible to join the scheme but has not joined in accordance with that regulation, or
- (b) is treated as a person who is eligible to join the scheme but has not joined in accordance with that regulation,

may notify the Secretary of State in writing that it wishes to apply to become a member of the scheme.

(2) A notice under paragraph (1) must state that L is willing to enter into a Self Remediation Contract.

(3) Following receipt of a notice which complies with paragraph (2), the Secretary of State must give notice to L inviting L to apply to become a member of the scheme.

(4) The notice given under paragraph (3) must contain a statement that until L has entered into a Self Remediation Contract and become a member of the scheme—

- (a) L's name, and the names of persons controlled by L, will not be removed from the prohibitions list, and
- (b) the prohibitions in Part 3 applicable to persons on the prohibitions list will continue to apply.

(5) On receipt of the notice referred to in paragraph (3), to join the scheme L must—

- (a) enter into a Self Remediation Contract (if they have not already done so), and
 - (b) make an application for membership of the scheme in accordance with paragraph (6).
- (6) An application for membership must—
- (a) be made in writing,
 - (b) set out the date on which the applicant entered into a Self Remediation Contract, and
 - (c) contain such other information as the Secretary of State may direct.

Commencement Information

I5 Reg. 17 in force at 4.7.2023, see [reg. 1\(1\)](#)

Application following revocation of membership

18.—(1) A person (“N”) whose membership of the scheme has been revoked by the Secretary of State in accordance with regulation 26 may notify the Secretary of State in writing that it wishes to apply to become a member of the scheme.

- (2) A notice under paragraph (1)—
- (a) must describe how N proposes to rectify the matters which led to N’s membership being revoked if N’s membership of the scheme is restored, providing evidence to support that contention;
 - (b) must provide evidence of steps already taken to rectify those matters;
 - (c) if N has ceased to be subject to the Self Remediation Terms, must state that N is willing to enter into a Self Remediation Contract.
- (3) Following receipt of a notice under paragraph (1), if the Secretary of State is satisfied that—
- (a) the proposals contained in the notice for the purposes of paragraph (2)(a) are sufficient and appropriately evidenced;
 - (b) N has taken reasonable steps to rectify the matters which led to N’s membership being revoked; and
 - (c) where relevant, the request contains the statement required by paragraph (2)(c),

the Secretary of State must give notice to N inviting N to apply to become a member of the scheme.

(4) The notice given under paragraph (3) must contain a statement that until N has entered into a Self Remediation Contract (if N has ceased to be subject to the Self Remediation Terms), and has become a member of the scheme—

- (a) N’s name, and the names of persons controlled by N, will not be removed from the prohibitions list; and
 - (b) the prohibitions in Part 3 applicable to persons on the prohibitions list will continue to apply.
- (5) On receipt of the notice referred to in paragraph (3), to join the scheme N must—
- (a) enter into a new Self Remediation Contract, if N has ceased to be subject to the Self Remediation Terms; and
 - (b) make an application for membership of the scheme in accordance with paragraph (6).
- (6) An application for membership must—
- (a) be made in writing,
 - (b) set out the date on which the applicant entered into a Self Remediation Contract, and

- (c) contain such other information as the Secretary of State may direct.

Commencement Information

I6 Reg. 18 in force at 4.7.2023, see [reg. 1\(1\)](#)

Determination of applications

19.—(1) Where the Secretary of State receives an application for membership in accordance with regulations 14, 16, 17 or 18, the Secretary of State must—

- (a) register the applicant as a member of the scheme,
- (b) notify the applicant that they have been so registered, and
- (c) inform them of the date from which their registration takes effect.

(2) If the application is made under regulation 17 or 18, on receipt of the application the Secretary of State must remove the applicant’s name, and the names of persons controlled by the applicant, from the prohibitions list.

Commencement Information

I7 Reg. 19 in force at 4.7.2023, see [reg. 1\(1\)](#)

Publication of list of members, prohibitions list and other lists

20.—(1) The Secretary of State must prepare, maintain and publish—

- (a) a list of members of the scheme, and
- (b) a list of persons to whom regulation 28 applies (“the prohibitions list”).

(2) The Secretary of State may not include a person on the prohibitions list if that person has had the planning and building control prohibitions disapplied in their entirety in accordance with regulation 42.

(3) Before including a person on the prohibitions list the Secretary of State must give notice to the person in accordance with these Regulations that they are to be included on the list.

(4) The notice referred to in paragraph (3) must contain the following information—

- (a) the date from which the person is to be included on the prohibitions list; and
- (b) where applicable, the date or dates by which the person must make an application for any exceptions provided for in these Regulations.

(5) The Secretary of State may also publish a list of persons to whom the Secretary of State has sent a warning notice under regulation 25 which has not been withdrawn.

Commencement Information

I8 Reg. 20 in force at 4.7.2023, see [reg. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023, CHAPTER 2.