



# Housing (Scotland) Act 2010

## 2010 asp 17

### PART 2

#### REGISTERED SOCIAL LANDLORDS

##### *The register*

#### **20 Registered social landlords**

- (1) The Regulator must keep a register of social landlords (“the register”).
- (2) Neither local authority landlords nor local authorities which provide housing services are to be included in the register.
- (3) The Regulator must—
  - (a) keep the register open for inspection at all reasonable times, and
  - (b) make the register available on a website, or by other electronic means, to members of the public.
- (4) The register must contain an entry for each body included in it setting out—
  - (a) the body’s name,
  - (b) details of how to contact the body,
  - (c) the body’s legal status,
  - (d) the body’s purposes or objects, and
  - (e) such other information relating to the body as the Regulator considers appropriate.

#### **21 Population of the register**

- (1) Each body which was, immediately before the commencement of this section, registered in the register maintained by Ministers under section 57 of the Housing (Scotland) Act 2001 ([asp 10](#)) is to be included in the register.
- (2) Subsection (1) does not affect the Regulator’s power to remove the body from the register under section 27 or 28.

## **22 Application**

An application for inclusion in the register must—

- (a) be made in such manner as the Regulator may determine, and
- (b) include or be accompanied by such information as the Regulator may request.

## **23 Entry in the register**

- (1) The Regulator must include every applicant body which it considers meets the registration criteria in the register.
- (2) The “registration criteria” are—
  - (a) the legislative registration criteria, and
  - (b) the regulatory registration criteria.
- (3) A body entered in the register is presumed to be eligible for registration while the registration lasts, irrespective of whether and why the body is later removed from the register.

### *Registration criteria*

## **24 Legislative registration criteria**

- (1) The “legislative registration criteria” are—
  - (a) that a body does not trade for profit,
  - (b) that a body is established for the purpose of, or has among its objects and powers, the provision, construction, improvement or management of—
    - (i) houses to be kept available for letting,
    - (ii) houses for occupation by members of that body, where the rules of that body restrict membership to persons entitled or prospectively entitled (as tenants or otherwise) to occupy a house provided or managed by that body, or
    - (iii) hostels,
  - (c) that a body carries out, or intends to carry out, those purposes, objects or powers in Scotland, and
  - (d) that any additional purposes or objects of a body must be from among the following—
    - (i) providing land, amenities or services, or providing, constructing, repairing or improving buildings, for its residents (or for its residents and other persons together),
    - (ii) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of on sale, on lease, on shared ownership terms or on shared equity terms,
    - (iii) constructing houses to be disposed of on shared ownership terms or on shared equity terms,
    - (iv) managing—
      - (A) houses which are held on leases or other lettings (not being houses falling within subsection (1)(b)(i) or (1)(b)(ii)), or
      - (B) blocks of flats (a block of flats meaning a building containing two or more flats which are held on leases or other lettings

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- and which are occupied or intended to be occupied wholly or mainly for residential purposes),
- (v) providing services of any description for owners or occupiers of houses in—
    - (A) arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works,
    - (B) arranging property insurance,
  - (vi) encouraging and giving advice on the formation of registered social landlords,
  - (vii) providing services for, and giving advice on the running of—
    - (A) registered social landlords, and
    - (B) other organisations whose activities are not carried on for profit which are concerned with housing or matters connected with housing,
  - (viii) promoting or improving the economic, social or environmental wellbeing of—
    - (A) its residents (or its residents and other persons together), or
    - (B) the area in which the houses or hostels it provides are situated,
  - (ix) giving financial assistance (by way of grant or loan or otherwise) to persons in order to help them to acquire houses on shared equity terms.
- (2) But a body is not ineligible for registration by reason only that its powers include power—
- (a) to acquire commercial premises or businesses as an incidental part of a project or series of projects undertaken for purposes or objects falling within subsection (1)(b) or (1)(d),
  - (b) to repair, improve or convert any commercial premises acquired as mentioned in paragraph (a) or to carry on for a limited period any business so acquired, or
  - (c) to repair or improve houses, or buildings in which houses are situated, after the tenants have exercised, or claimed to exercise, rights to purchase under section 61 of the Housing (Scotland) Act 1987 (c.26).
- (3) Ministers may by order—
- (a) amend the purposes, objects and powers specified in subsections (1)(d) and (2),
  - (b) make such provision (including provision amending or otherwise modifying any provision of this Act) which Ministers consider appropriate for the purpose of applying any provision of this Act to, or adapting it for, bodies constituted otherwise than as a registered society or registered company.
- (4) Before making any order under this section, Ministers must—
- (a) have regard to the interests of persons who may become—
    - (i) homeless, or
    - (ii) tenants of social landlords, and
  - (b) consult—
    - (i) the Regulator,
    - (ii) tenants of social landlords or their representatives,
    - (iii) social landlords or their representatives, and

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(iv) secured creditors of registered social landlords or their representatives.

(5) Any order which restricts or limits purposes or objects in subsection (1)(d) has no effect in relation to a body registered as a social landlord when the order was made.

(6) In this section—

“letting” includes the grant of a right or permission to occupy,

“residents”, in relation to a body, means persons occupying the houses or hostels provided or managed by the body.

## **25 Regulatory registration criteria**

(1) The “regulatory registration criteria” are such criteria as the Regulator may set about—

- (a) a body’s financial situation,
  - (b) the arrangements for a body’s governance and financial management,
  - (c) the manner in which a body provides housing services,
- and different criteria may be set for different types of bodies or cases.

(2) Before setting, revising or withdrawing any criteria, the Regulator must consult—

- (a) Ministers,
- (b) tenants of social landlords or their representatives,
- (c) social landlords or their representatives, and
- (d) secured creditors of registered social landlords or their representatives.

(3) The Regulator must make arrangements for bringing the regulatory registration criteria (and any revision or withdrawal) to the attention of those affected by it.

## **26 Guidance on registration criteria**

(1) The Regulator must issue guidance as to how it will assess whether a body meets the registration criteria.

(2) Before issuing or revising guidance, the Regulator must consult—

- (a) Ministers,
- (b) tenants of registered social landlords or their representatives,
- (c) registered social landlords or their representatives, and
- (d) secured creditors of registered social landlords or their representatives.

(3) The Regulator must make arrangements for bringing any issue or revision of guidance to the attention of those affected by it.

### *Removal from register*

## **27 Compulsory de-registration**

(1) The Regulator may remove a body from the register under this section only if it considers that the body—

- (a) no longer meets (or has never met) the registration criteria,
- (b) has ceased to carry out activities, or
- (c) has ceased to exist.

- (2) In determining whether to remove a body from the register, the Regulator may require the body to provide information demonstrating that it meets any of the registration criteria.
- (3) Before removing a body from the register the Regulator must—
  - (a) take all reasonable steps to give the body at least 14 days' notice, and
  - (b) have regard to any views expressed by the body in that period.

## **28 Voluntary de-registration**

- (1) The Regulator must set de-registration criteria to be applied where a registered social landlord seeks to be removed from the register (and may set different criteria for different types of bodies or cases).
- (2) A registered social landlord may ask the Regulator to remove it from the register on the ground that it meets the de-registration criteria.
- (3) The Regulator, if satisfied that the landlord meets the de-registration criteria, must remove the landlord from the register.
- (4) Before setting or revising de-registration criteria, the Regulator must consult—
  - (a) Ministers,
  - (b) tenants of registered social landlords or their representatives,
  - (c) registered social landlords or their representatives, and
  - (d) secured creditors of registered social landlords or their representatives.
- (5) The Regulator must make arrangements for bringing the de-registration criteria (and any revision) to the attention of those affected by them.

### *Appeals*

## **29 Appeal against decision on registration or removal**

- (1) A body may appeal to the Court of Session against a decision of the Regulator—
  - (a) not to register it,
  - (b) to remove it from the register, or
  - (c) not to remove it from the register.
- (2) The Court may determine an appeal by—
  - (a) confirming the decision,
  - (b) quashing the decision, or
  - (c) remitting the case to the Regulator for reconsideration,and the Court's determination of the matter is final.
- (3) Where the appeal is against a decision to remove a body from the register, the Regulator must not remove the body before the appeal has been finally determined or is withdrawn.

*Communication with other regulators*

**30      Communication with other regulators**

- (1) As soon as reasonably practicable after registering or de-registering a body, the Regulator must—
  - (a) in the case of a charity, notify the Office of the Scottish Charity Regulator,
  - (b) in the case of a registered society, notify the Financial Services Authority, and
  - (c) in the case of a registered company, notify the registrar of companies.
- (2) As soon as reasonably practicable after an appeal is brought under section 29, the Regulator must give notice of the outcome of the appeal to—
  - (a) in the case of a charity, the Office of the Scottish Charity Regulator,
  - (b) in the case of a registered society, the Financial Services Authority, and
  - (c) in the case of a registered company, the registrar of companies.
- (3) The Office of the Scottish Charity Regulator must keep a record of any notice it is given under this section.