
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 278

HOUSING

The Regulation of Social Housing (Influence of Local Authorities) (Scotland) Regulations 2018

Made - - - - 18th September 2018

Coming into force - - 19th September 2018

The Scottish Ministers make the following Regulations in exercise of the power conferred by section 9 of the Housing (Amendment) (Scotland) Act 2018⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 9(6) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Regulation of Social Housing (Influence of Local Authorities) (Scotland) Regulations 2018 and come into force on the day after the day on which they are made.

(2) These Regulations apply notwithstanding any inconsistent provision either in a contractual arrangement to which a registered social landlord is a party or in a registered social landlord's constitution⁽²⁾.

Interpretation

2. In these Regulations—

“appointed day” is 8th March 2019; and

“local authority officer” means an officer appointed to the governing body of a registered social landlord by a local authority⁽³⁾.

(1) 2018 asp 13 (“the 2018 Act”).

(2) “Constitution” has the meaning given by section 165 of the Housing (Scotland) Act 2010 (asp 17) (“the 2010 Act”): see section 9(7) of the 2018 Act.

(3) “Officer” in relation to a registered social landlord, “local authority” and “registered social landlord” have the meanings given by section 165 of the 2010 Act: see section 9(7) of the 2018 Act.

Officers of registered social landlords

3.—(1) The percentage of officers of a registered social landlord who are local authority officers may not, on and after the appointed day, exceed 24% of the total number of officers.

(2) Any appointment of a new local authority officer which would result in that percentage being exceeded on and after the appointed day is of no effect.

(3) The registered social landlord must remove a sufficient number of local authority officers to secure that the requirement in paragraph (1) is complied with.

(4) The local authority must nominate the local authority officers who are to be removed under paragraph (3); but if it fails to notify the registered social landlord of the nomination before the appointed day, the officers of the registered social landlord who are not local authority officers must select by majority vote the persons who are to be removed.

Further provision in relation to officers

4. Any provision in a constitution of a registered social landlord that requires one or more local authority officers to be present in order for a meeting to be quorate has no effect on and after the appointed day.

Voting rights of local authority

5.—(1) On and after the appointed day a local authority may not hold or exercise any local authority voting rights in relation to a registered social landlord.

(2) Where the constitution of a registered social landlord provides for local authority voting rights, that landlord must by the appointed day amend that constitution to re-assign those voting rights amongst the remaining voting membership in proportion to each member's existing share of the voting rights.

(3) Where a constitution has not been amended in accordance with paragraph (2) by the appointed day, such voting rights are deemed from that date to have been re-assigned amongst the remaining voting membership in proportion to each member's existing share of the voting rights.

(4) In this regulation "local authority voting rights" means the voting rights of the local authority itself as a member of the registered social landlord.

Other provision as to voting rights

6.—(1) A provision in the constitution of a registered social landlord which requires that a decision by officers be approved by over 75% of the votes cast is to have effect on and after the appointed day as a provision requiring that the decision be approved by at least 75% of the votes cast.

(2) Paragraph (1) does not apply to a registered social landlord with no local authority officers.

(3) Where the constitution of a registered social landlord makes provision for the consent of a local authority in order for a change to the constitution to be effective such provision shall have no effect on or after the appointed day.

St Andrew's House,
Edinburgh
18th September 2018

KEVIN STEWART
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision to reduce the amount of local authority influence over registered social landlords (RSLs). Part 2 of the Housing (Scotland) Act 2010 (asp 17) sets out the provisions governing RSLs and provides that the Scottish Housing Regulator must keep a register of social landlords.

These Regulations apply notwithstanding any provision in an RSL's constitution or any contractual arrangement an RSL may have in relation to its constitutional arrangements.

Regulation 3 provides that as of the appointed day, which is 8th March 2019, no more than 24% of the officers of an RSL may be local authority officers. The local authority must nominate which of its officers are to be removed. In the event that it does not, the non-local authority officers of the RSL must select by majority vote those local authority officers who are to be removed.

Regulation 4 provides that any provision of a constitution of an RSL requiring local authority officers to be present for a quorum to be reached shall have no effect on and after the appointed day.

Regulation 5 is concerned with the voting rights a local authority may have as part of its membership of an RSL. It provides, by no later than the appointed day of 8th March 2019, for the re-assignment of voting rights of a local authority which are held before these regulations come into force. If an RSL's constitution that requires to be amended by this regulation is not amended accordingly by the appointed day, local authority membership voting rights are thereafter re-assigned to the remaining members, in a pro-rata proportion to their existing share of votes.

Where a constitution of an RSL (whose board contains local authority officers) provides for a resolution to be approved by more than 75% of the votes cast, regulation 6 provides that, on and after the appointed day, that provision has effect to require that the decision be approved by at least 75% of the votes cast. It also makes provision to ensure amendment of the constitution of an RSL to reflect this requirement.

A full impact assessment has not been prepared for this instrument as no impact on business or the private or voluntary sector is foreseen.