



# Housing and Regeneration Act 2008

## 2008 CHAPTER 17

### PART 2

#### REGULATION OF SOCIAL HOUSING

### CHAPTER 3

#### REGISTRATION

VALID FROM 01/04/2010

#### *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

*Status: Point in time view as at 08/09/2008. This version of this chapter contains provisions that are not valid for this point in time.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Housing and Regeneration Act 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (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.
- (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.

#### Commencement Information

**II** S. 112(3)(4) in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#) (with [art. 3\(3\)\(4\)](#))

### 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).

#### Commencement Information

**I2** S. 113(5)(6) in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)

### 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.

*Status: Point in time view as at 08/09/2008. This version of this chapter contains provisions that are not valid for this point in time.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Housing and Regeneration Act 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (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.

#### Commencement Information

**I3** S. 114 in force at 8.9.2008 for specified purposes by S.I. 2008/2358, art. 3(1)

VALID FROM 01/04/2010

#### **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.

*Status: Point in time view as at 08/09/2008. This version of this chapter contains provisions that are not valid for this point in time.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Housing and Regeneration Act 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (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;
  - (c) the manner in which an application is to be 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).

#### Commencement Information

**I4** S. 116(2) in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

#### 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.

*Status: Point in time view as at 08/09/2008. This version of this chapter contains provisions that are not valid for this point in time.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Housing and Regeneration Act 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (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.

#### Commencement Information

**I5** S. 117 in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)

VALID FROM 01/04/2010

#### **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—

*Status: Point in time view as at 08/09/2008. This version of this chapter contains provisions that are not valid for this point in time.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Housing and Regeneration Act 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (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).

#### Commencement Information

**I6** S. 119(2)(7) in force at 8.9.2008 for specified purposes by S.I. 2008/2358, art. 3(1)

VALID FROM 01/04/2010

#### 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,<sup>F1</sup>...
  - (c) in the case of a registered company (whether or not also a registered charity), the registrar of companies for England and Wales<sup>F2</sup>, and
  - (d) in the case of a local authority, the Secretary of State.]
- (2) [<sup>F3</sup>Except in the case of a local authority,] 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.

*Status: Point in time view as at 08/09/2008. This version of this chapter contains provisions that are not valid for this point in time.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Housing and Regeneration Act 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(4) A person to whom notice is given under this section must keep a record of it.

#### Textual Amendments

- F1** Word in s. 120(1)(b) omitted (1.4.2010) by virtue of [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 19\(2\)\(a\)](#)
- F2** S. 120(1)(d) and word inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 19\(2\)\(b\)](#)
- F3** Words in s. 120(2) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 1 para. 19\(3\)](#)

#### Commencement Information

- I7** S. 120 in force at 1.4.2010 by [S.I. 2010/862](#), [art. 2](#) (with [Sch.](#))

VALID FROM 01/04/2010

## 121 Appeal

- (1) A body may appeal to the High Court against a decision of the regulator—
- to refuse to register it,
  - to de-register it, or
  - 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.

**Status:**

Point in time view as at 08/09/2008. This version of this chapter contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Housing and Regeneration Act 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations.