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STATUTORY INSTRUMENTS

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**2008 No. 2361**

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

**PART 2**

**INITIATING THE PROCESS STAGE**

**Proposal notices**

**9.**—(1) A notice is a proposal notice if it complies with paragraphs (2) and (4) and is served on an authority by a TMO.

(2) The notice must contain the following—

- (a) that the authority on which it is served enter into a TMO agreement with the TMO serving the notice;
- (b) that the subject of the proposed TMO agreement be the management of houses within the TMO's area of which, at the time the notice is served, at least 25 are let under secure tenancies; and
- (c) that those houses to which the proposed TMO agreement relates are within the TMO's area.

(3) The notice must be accompanied by evidence demonstrating that the requirements in regulation 10 have been complied with.

(4) A proposal notice must not contain a proposal relating to houses already included in an existing management agreement between a TMO and an authority unless—

- (a) all of those houses are included in the proposal and the TMO which serves the notice is a party to that existing management agreement; or
- (b) the number of houses which are the subject of the existing agreement is greater than 2500.

**Consultation and membership requirements relevant to proposal notices**

**10.** A TMO must—

- (a) before serving a proposal notice on an authority, use its best endeavours to deliver a copy of the notice to every house which is identified in the proposal notice;
- (b) be satisfied that before serving a proposal notice—
  - (i) a majority of members of the TMO voted in favour of serving the notice at a ballot of all members; or
  - (ii) a majority of members of the TMO in attendance at a properly constituted general meeting voted in favour of a resolution to serve a notice;
- (c) at the time the notice is served, ensure that the membership of the TMO includes—
  - (i) at least 20% of the tenants; and
  - (ii) at least 20% of the secure tenants,

of the houses identified in the proposal notice.

### **Acceptance and refusal of proposal notices**

**11.**—(1) Subject to paragraphs (4) and (5), an authority on which a proposal notice is served must accept it.

(2) An authority must notify the TMO within 28 days of receiving the proposal notice—

- (a) whether it has accepted or refused the proposal notice; and
- (b) where it has refused, the reasons for the refusal.

(3) Where an authority accepts a proposal notice, it must at the time of notification under paragraph (2)—

- (a) inform the TMO of any other management organisation or person which already exercises management functions in relation to the houses identified in the proposal notice; and
- (b) provide a copy of the proposal notice to any other such management organisation or person.

(4) An authority may refuse to accept a proposal notice if it contains a similar proposal to one contained in a previous proposal notice, and—

- (a) at least half of the houses identified in the current proposal notice were also identified in the previous proposal notice; and
- (b) within the two years preceding the date on which the current notice is received, the previous proposal notice was withdrawn voluntarily, by the TMO, or was deemed to be withdrawn as mentioned in—
  - (i) regulation 13(6) (feasibility study requirements);
  - (ii) regulation 14(8)(b) (competence of TMO);
  - (iii) regulation 15(4) (refusal of offer to tenants); or
  - (iv) regulation 17(2) (failure to register TMO).

(5) An authority may refuse to accept a proposal notice if it has reasonable grounds for believing that the TMO which serves the notice has failed to comply with the requirements of regulation 10(a) or (b), or that the requirements of regulation 10(c) have not been met.

### **Authority support following proposal notice**

**12.**—(1) Where an authority has accepted a proposal notice, the TMO which served the notice may request the authority for such support as is specified in the request, being support that is reasonably required for the purposes of pursuing the proposal notice.

(2) On receipt of a request under paragraph (1), the authority must—

- (a) determine the support which it considers the TMO reasonably requires for the purposes of pursuing the proposal notice; and
- (b) notify the TMO of the determination within 28 days of receipt of the request.

(3) Subject to paragraphs (7) and (8) the authority must provide support in accordance with the determination under paragraph (2)(a).

(4) If a TMO is dissatisfied with an authority's determination under paragraph (2)(a) it may, within 28 days of being notified of the determination, refer the request to an arbitrator.

(5) Where a TMO makes a referral under paragraph (4) it must at the same time give notice of that referral to the authority.

(6) Within 28 days of a referral under paragraph(4) the arbitrator must—

- (a) determine the support which the arbitrator considers the TMO reasonably requires for the purposes of pursuing the proposal notice; and
  - (b) notify the authority and the TMO of the determination.
- (7) Where a determination has been notified under paragraph (6), the authority must provide support in accordance with that determination.
- (8) Paragraph (3) does not apply if the proposal notice is withdrawn voluntarily by the TMO, or is deemed to be withdrawn under these Regulations.