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STATUTORY INSTRUMENTS

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**2008 No. 2361**

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

**PART 3**

**FEASIBILITY AND DEVELOPMENT STAGE**

**Feasibility study**

**13.**—(1) Where an authority has accepted a proposal notice, the TMO and the authority must within 15 months of the acceptance date, jointly prepare and publish a study which complies with paragraph (2).

(2) A feasibility study must set out—

- (a) the management functions which the TMO proposes to exercise;
- (b) the funding or budget to be allocated by the authority to enable the TMO to exercise those functions;
- (c) the financial accountability and control procedures which the authority and the TMO must have in place before the TMO may exercise those functions; and
- (d) the management and governance arrangements of the TMO.

(3) Where the TMO and the authority fail to agree on any matter required by paragraph (2) to be set out in the study, either party may refer the dispute to an arbitrator.

(4) Within 2 months of a referral under paragraph (3), the arbitrator must determine the matters in paragraph (2) to be set out and notify the TMO and the authority of the determination.

(5) The TMO and the authority must incorporate in the study the details notified under paragraph (4).

(6) Where a TMO and authority fail to comply with paragraph (1) or, if applicable, paragraph (5), the proposal notice is deemed to be withdrawn.

**Appointment of approved assessor to assess competence of TMO**

**14.**—(1) Where an authority has accepted a proposal notice, the TMO must within 3 months of the acceptance date, apply to the approved assessor service to appoint an approved assessor to report on the competence of the TMO to exercise the management functions set out in the feasibility study.

(2) The authority must arrange for the approved assessor to carry out the report.

(3) The report described in paragraph (1) must—

- (a) state whether or not the approved assessor concludes that the TMO is competent; and
- (b) if the approved assessor concludes that the TMO is not competent, suggest the action he believes the authority and the TMO should take to ensure that the TMO becomes competent.

(4) The approved assessor must, within 15 months of the acceptance date, complete the report and provide it to the authority and the TMO.

- (5) The authority and the TMO must—
  - (a) Use all reasonable efforts to take the action suggested by the approved assessor in accordance with paragraph (3)(b); and
  - (b) jointly agree an action plan to enable them to do so.
- (6) The authority must notify the approved assessor within 7 days of the action being completed.
- (7) The approved assessor must within 35 days of receipt of the authority’s notification under paragraph (6) reassess whether or not the TMO is competent and notify the authority and TMO of his conclusion.
- (8) The proposal notice is deemed to be withdrawn—
  - (a) if a TMO and authority fail to comply with the requirements of this regulation; or
  - (b) if the approved assessor concludes under paragraph (7) that the TMO is not competent.

**Offer to tenants**

- 15.**—(1) Where the approved assessor concludes under regulation 14 that the TMO is competent, the authority must within 3 months of receiving his conclusion, make to the tenants of each house identified in the proposal notice, an offer setting out—
- (a) a summary of the feasibility study; and
  - (b) the conclusion of the approved assessor.
- (2) The authority must arrange for a ballot to be carried out within 3 months of making the offer, with a view to establishing whether the tenants referred to in paragraph (1) wish to accept the offer.
- (3) The authority must within 14 days of carrying out the ballot notify the TMO and the Secretary of State whether a majority of the tenants who voted and a majority of the secure tenants who voted—
- (a) accepted the offer; or
  - (b) refused the offer.
- (4) The proposal notice is deemed to be withdrawn if the offer is refused by—
- (a) a majority of the tenants who voted in the ballot held pursuant to paragraph (2); and
  - (b) a majority of the secure tenants who voted in that ballot.