
STATUTORY INSTRUMENTS

2008 No. 2361

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

PART 6

TRANSITIONAL PROVISIONS

General transitional provision

22. Except as mentioned in this Part, any function exercised, step taken or requirement satisfied in accordance with a provision in the 1994 Regulations before the commencement date must be treated on and after that date as a function exercised, step taken or requirement satisfied in accordance with the equivalent provision of these Regulations.

Proposal notices served under the 1994 Regulations

23.—(1) This regulation applies where before the commencement date—

- (a) a TMO has served a proposal notice pursuant to regulation 2(1) of the 1994 Regulations (referred to in the following provisions of this Part as a “regulation 2 notice”); and
- (b) the authority on which the notice was served has neither accepted nor declined to accept the proposal notice.

(2) The authority may accept the regulation 2 notice on or after the commencement date; and where it does so regulation 12 to 17 of these Regulations shall have effect as if the regulation 2 notice were a proposal notice within the meaning of these Regulations.

(3) The authority may, in accordance with regulation 2(2) or (4) of the 1994 Regulations, decline to accept the regulation 2 notice; but the authority shall not be treated as having done so unless, within the period specified in regulation 2(7) of those Regulations, it gives notice to that effect, stating its reasons for declining to accept the proposal notice.

(4) Regulation 2(3) and (5) of the 1994 Regulations shall apply where a proposal notice is declined as mentioned in paragraph (3) above.

Local authority support following proposal notice

24.—(1) Where, before the commencement date—

- (a) a TMO has requested support under paragraph (1) of regulation 3 of the 1994 Regulations; and
- (b) the authority has not made the determination referred to in paragraph (3)(a) of that regulation,

that regulation shall continue to have effect on and after that date in relation to that request.

(2) Where, on or after the commencement date—

- (a) the authority agrees to the TMO’s request; or

- (b) an arbitrator notifies the authority and the TMO under regulation 3(7)(b) of the 1994 Regulations of a determination made in relation to that request,

the authority and the TMO may prepare and publish a feasibility study in accordance with regulation 13 of these Regulations.

- (3) Regulations 14 to 17 of these Regulations shall apply in a case to which paragraph (2) applies as if the regulation 2 notice were a proposal notice accepted under regulation 11.

Subsequent procedure in relation to regulation 2 notices

25.—(1) Paragraphs (2) to (4) shall apply where, before the commencement date, the authority has accepted a regulation 2 notice but has not entered into a management agreement under the 1994 Regulations.

(2) Subject to paragraphs (3) and (4), any function being exercised, step being taken or requirement in the process of being satisfied immediately before the commencement date in accordance with any of paragraphs (1) to (8) of regulation 4 of the 1994 Regulations shall not be continued under those Regulations on or after that date.

(3) Where a ballot has been carried out pursuant to paragraph (12)(b) of regulation 4 of the 1994 Regulations before the commencement date, paragraphs (13) to (16) of that regulation shall continue to have effect on and after that date as regards the regulation 2 notice to which the ballot relates.

(4) Where, before the commencement date, the report of a study has been submitted to the Secretary of State under regulation 4(9) of the 1994 Regulations, but a ballot has not been carried out under those Regulations—

- (a) within 3 months of the commencement date the TMO must apply to the approved assessor service for the appointment of an assessor; and
- (b) regulations 14 to 17 of these Regulations shall have effect as if the regulation 2 notice were a proposal notice accepted under regulation 11.

(5) Unless paragraph (3) or (4) applies, the TMO and the authority must—

- (a) within 3 months of the commencement date, apply to the approved assessor service for the appointment of an assessor;
- (b) within 15 months of the commencement date, jointly prepare and publish a feasibility study; and
- (c) regulation 13(3) to (6) shall have effect in relation to that study as if the regulation 2 notice were a proposal notice accepted under regulation 11 of these Regulations.