

**EXPLANATORY MEMORANDUM TO  
THE ALLOCATION OF HOUSING (ENGLAND)(AMENDMENT)(FAMILY  
INTERVENTION TENANCIES) REGULATIONS 2008**

**2008 No. 3015**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The purpose of the instrument is to provide that the rules in Part 6 of the Housing Act 1996 (“the Act”) which apply to the allocation of housing by a local housing authority (“LHA”) do not apply where such an allocation is made to a person who lawfully occupies accommodation let on a family intervention tenancy.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Context**

4.1 Part 6 of the Act makes provision about the procedures and principles which LHAs must follow in allocating housing accommodation (i.e. in selecting tenants for their own housing stock and nominating tenants to registered social landlords (“RSLs”). These procedures and principles apply to any allocation made by a LHA, unless one of the exceptions in section 160 of the Act applies. Section 160(4) of the Act enables the Secretary of State to make regulations to prescribe cases in which the procedures and principles will not apply.

4.2 The Allocation of Housing (England) Regulations 2002 (SI 2002/3264) (“the Allocation Regulations”), made under section 160(4) of the Act, specify two situations in which the provisions of Part 6 do not apply.

4.3 Section 297(1) of the Housing and Regeneration Act 2008 (“the 2008 Act”) inserted a new paragraph 4ZA into Schedule 1 to the Housing Act 1985 to create a new type of tenancy, the family intervention tenancy, which can in certain circumstances be offered by LHAs. Equivalent provision for family intervention tenancies (“FITs”) to be offered by RSLs was made by section 297(2) of the 2008 Act which inserted a new paragraph 12ZA into Part 1 of Schedule 1 to the Housing Act 1988.

4.4 These Regulations amend the Allocation Regulations to add a new case where Part 6 will not apply, namely in relation to the allocation by a LHA of housing accommodation to a person who lawfully occupies accommodation let on a

family intervention tenancy (whether that tenancy was granted by the LHA or an RSL).

## **5. Territorial Extent and Application**

5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 FITs were introduced in the 2008 Act to enable LHAs and RSLs to offer tenancies which are not secure or assured tenancies to certain tenants who have lost or are potentially at risk of losing their secure or assured tenancy. FITs will be offered as part of a behavioural support package (known as a “family intervention project” or “FIP”) for tenants against whom a possession order for anti-social behaviour has been made or those tenants who could face possession proceedings on the grounds of anti-social behaviour.

7.2 FIPs are designed to help a small number of families who have been found to be amongst the most challenging (having come to the attention of a number of agencies). Not all families referred to a FIP reside in social housing, however a large proportion do. They are likely to be families with serious anti-social behaviour problems, possible drug and alcohol abuse and other interrelated problems. The purpose of FIPs is to help rehabilitate these families so that they can ultimately live within the community without causing further nuisance.

7.3 While support under a FIP is sometimes offered on an outreach basis (where the family retains its original tenancy) in some cases the best means of delivering support is to move the family into special accommodation for the duration of their support programme. This is done in one of two ways - either in dispersed accommodation (i.e. alternative RSL or LHA accommodation to that which they currently occupy) where it is often intended the family will live in the longer term should they successfully engage with support, or in purpose-built units (which often accommodate more than one family at a time). FITs will only be offered to those families who are moved into dispersed accommodation or purpose-built units.

7.4 LHA and RSL landlords have experienced problems delivering support to families via FIPs because of difficulties over what tenancy a family should hold while living in dispersed accommodation or purpose-built units. FITs were therefore created to provide for a robust, easily understood framework. They do this by establishing an appropriate tenancy for families while they receive support and a simple means of moving families between mainstream and dispersed accommodation or purpose-built units.

7.5 Currently, when the LHA considers that a family who have participated in a FIP (and who have a FIT) are ready to move back into social housing having

addressed their behaviour, that authority is obliged to follow its allocation scheme and treat the family like any other applicant for social housing. Part 6 of the Act provides, amongst other things, that LHAs must allocate accommodation in accordance with their allocation scheme. Most LHAs' allocation schemes take account of provisions in the Act which allow them to treat people with anti-social behaviour problems as ineligible for an allocation or withholding preference for allocation purposes. Since families who have taken part in FIPs will often have serious anti-social behaviour problems, they would be likely to be ineligible for an allocation of social housing or would probably have to wait a long time for an allocation because they will not have sufficient priority under the LHA allocation scheme.

7.6 For families to have lasting benefits from the support they have received, it is often critical that they be moved into stable accommodation as soon as possible following conclusion of their intensive support programme. It is therefore necessary, in order to maximise the chances that the behavioural support provided under the FIP works, and continues to work, that LHAs are given the flexibility to offer families a new social tenancy as quickly as possible where appropriate. These Regulations will give LHAs that flexibility.

7.7 Consolidation – This is the first amendment made to the Allocation Regulations. If further amendments are made in the future then the Department will consider whether consolidation would be appropriate at that time.

## **8. Consultation Outcome**

8.1 No formal consultation was undertaken on these Regulations. The Department has, however, kept practitioners (i.e. FIP workers and LHA and RSL landlords) fully informed about its proposals, not only as regards these Regulations but also as regards FIPs and FITs, through regionally-based meetings of practitioners.

## **9. Guidance**

9.1 The Government will be publishing guidance, which will include further advice on the use of family intervention tenancies and the re-housing of families on completion of their family intervention projects. The guidance will be published in early January 2009 so that it is available at the same time, or very shortly after, these Regulations come into force.

## **10. Impact**

10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

10.2 These Regulations will have minimal impact on the public sector. They will enable LHAs to allocate social housing to families that finish family intervention projects without them (LHAs) having to follow the rules of Part 6 of the Act. There is no compulsion on LHAs to allocate social housing to such families. However, where

they do so, any additional costs are likely to be negligible and therefore subsumed within the normal day-to-day running costs of the authority.

## **11. Regulating small business**

11.1 The legislation does not apply to small businesses.

## **12. Monitoring and review**

12.1 The Department will seek to assess the effectiveness of this instrument through gathering feedback from FIPs and LHA and RSL landlords through regional practitioner fora. The Department plans to seek this feedback after 12 months. Success criteria for this instrument will include an evaluation of how effective it proves in achieving longer-term housing security for families who have been in receipt of intensive support.

## **13. Contact**

Peter Fenn at the Department for Communities and Local Government can answer any queries regarding this instrument (Tel: 0207 944 3502, [peter.fenn@communities.gsi.gov.uk](mailto:peter.fenn@communities.gsi.gov.uk)).

Department for Communities and Local Government

Date