

EXPLANATORY MEMORANDUM TO

THE CHARITABLE INCORPORATED ORGANISATIONS (NOTIFICATION REQUIREMENTS: SOCIAL HOUSING) (AMENDMENT) REGULATIONS 2024

2024 No. 553

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing & Communities (DLUHC) and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

- 2.1 Baroness Scott, Parliamentary Under Secretary of State at DLUHC confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Nick Burkitt, Deputy Director for Affordable Housing, Regulation, and Investment at DLUHC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Shayne Coulson at the Department for Levelling Up, Housing and Communities (DLUHC), Telephone: 03034441797, Email: shayne.coulson@levellingup.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 In its Eleventh Report of Session 2023-24 the Joint Committee on Statutory Instruments¹ reported the Charitable Incorporated Organisations (Notification Requirements: Social Housing) Regulations 2023 (the principal Regulations) for failure to follow proper legislative practice. The Committee found that the drafting of two provisions in regulation 4 of the principal Regulations was unclear. This instrument addresses that concern.

Where does the legislation extend to, and apply?

- 4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

¹ [Eleventh Report of Session 2023–24 - Joint Committee on Statutory Instruments \(parliament.uk\)](https://publications.parliament.uk/pa/jt5804/jtselect/jtstatin/61/report.html#:~:text=%E2%80%94%20Formal%20Minutes-,Instruments%20reported,for%20reporting%20are%20given%20below)
<https://publications.parliament.uk/pa/jt5804/jtselect/jtstatin/61/report.html#:~:text=%E2%80%94%20Formal%20Minutes-,Instruments%20reported,for%20reporting%20are%20given%20below>

5. Policy Context

What is being done and why?

- 5.1 The purpose of this instrument is to address the concerns raised by JCSI relating to the drafting of the principal Regulations. The principal Regulations require private registered providers of social housing (PRPs) that are charitable incorporated organisations (CIOs) or want to become one to notify the Regulator of Social Housing (RSH) about issues affecting their businesses. Its purpose is to ensure the RSH is aware of significant changes in an organisation they are responsible for regulating. The new regulations clarify the drafting of two provisions in regulation 4 of the principal Regulations.
- 5.2 Regulation 4 of the principal Regulations imposes on a PRP that is a charitable company or community interest company two requirements: (i) to notify the RSH if it passes a relevant resolution to convert into a CIO; and (ii) to supply the Charity Commission for England and Wales with a statement confirming that the RSH has been so notified when it applies to the Charity Commission to be converted into a CIO and for the CIO's registration as a charity.
- 5.3 Regulation 4(4) referred, within the meaning of a "relevant resolution", to any requirements imposed by the CIO regulations. The JCSI noted that there were numerous regulations that deal with CIOs and the Committee were, therefore, unsure to what this was referring. Therefore, these regulations clarify at regulation 2(b) that a 'relevant resolution' is a resolution that complies with regulation 4(4) of the Charitable Incorporated Organisations (Conversion) Regulations 2017.
- 5.4 In regulation 4(2) of the principal Regulations, JCSI suggested there was an erroneous reference to "a relevant company" applying to become a CIO. Regulations 2(a) of these regulations substitutes the defined term "relevant PRP" for "relevant company".

What was the previous policy, how is this different?

- 5.5 There is no difference in policy, this instrument makes technical amendments to clarify the drafting of the principal Regulations.

6. Legislative and Legal Context

How has the law changed?

- 6.1 The Social Housing (Regulation) Act 2023 (2023 Act) amends the Housing and Regeneration Act 2008 to facilitate a new, proactive approach to regulating social housing landlords on consumer issues such as safety, transparency, tenant engagement and competence and conduct. The 2023 Act also refines the existing economic regulatory regime (which is focused on good governance and financial viability) and strengthens the RSH's enforcement powers, as well as amending the special housing administration regime in the Housing and Planning Act 2016.
- 6.2 The refinements made by the 2023 Act to the economic regulatory regime include amendments, made by sections 16 to 18 of that Act, to requirements to notify the RSH of the occurrence of certain insolvency or restructuring events involving PRPs that are registered societies and companies, and to requirements imposed on the RSH relating to the registration of successor bodies.
- 6.3 The principal Regulations make provision about notifications relating to restructuring events involving PRPs that are CIOs or wish to become CIOs, and about insolvency events involving CIOs.

Why was this approach taken to change the law?

- 6.4 This approach was taken to address the concerns raised by the JCSI in its report by clarifying the drafting of the principal Regulations.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 Sections 348(4)(b) of the Charities Act 2011 requires that the Secretary of State consults such persons or bodies of persons as the Secretary of State considers appropriate before exercising his power to make regulations under the Act.
- 7.2 The provisions in this instrument are largely technical in nature. DLUHC consulted with the RSH and the Charity Commission (the bodies which the Secretary of State considers it appropriate to consult) on the principal Regulations and the clarifications made by this instrument. Both organisations are supportive of the changes.

8. Applicable Guidance

- 8.1 Both the Charity Commission and the RSH intend to provide guidance on what is required by the principal Regulations (as amended by this instrument).

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because this SI makes only technical clarifications to the principal regulations and therefore no, or no significant, impact on the private, voluntary, or public sector is foreseen.

Impact on businesses, charities and voluntary bodies

- 9.2 There is no, or no significant, impact on charities or voluntary bodies.
- 9.3 The legislation impacts small or micro businesses.
- 9.4 While this instrument has direct impacts on small or micro businesses, we do not anticipate the requirements to notify of events that occur infrequently will have any significant impact on small or micro businesses given the very small administrative burden potentially imposed on a small number of bodies.
- 9.5 There is no, or no significant, impact on the public sector given the very small administrative burden potentially imposed on a small number of bodies.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The Department does not propose to monitor the effects of this instrument or the principal Regulations. Undertaking a review about the impact of this instrument in isolation would be disproportionate to the changes being made. However, the government will continue to monitor the effectiveness of the regulation of social housing.
- 10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Baroness Scott, Parliamentary Under Secretary of State for Faith and Communities has confirmed: ‘Given the minor scale of the measures by this instrument, it is my view

that it would not be proportionate use of public resources to monitor the changes being made.’

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 This instrument corrects errors in the Charitable Incorporated Organisations (Notification Requirements: Social Housing) Regulations 2003 (S.I. 2023/997) previously reported by the Joint Committee on Statutory Instruments in its Eleventh Report of Session 2023-24.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023.