STATUTORY INSTRUMENTS

2017 No. 1102

HOUSING, ENGLAND

The Regulation of Social Housing (Influence of Local Authorities) (England) Regulations 2017

Made - - - - 15th November 2017

Coming into force in accordance with regulation 1(1)

The Secretary of State, in exercise of the powers conferred by sections 93 and 214(6) of the Housing and Planning Act 2016(**1**), makes the following Regulations.

A draft of these Regulations has been approved by a resolution of each House of Parliament in accordance with section 214(2) of that Act.

PART 1

Introductory

Citation, commencement and application

1.—(1) These Regulations may be cited as the Regulation of Social Housing (Influence of Local Authorities) (England) Regulations 2017 and come into force on the day after the day on which they are made.

(2) These Regulations apply in relation to England only.

(3) These Regulations do not apply to a private registered provider(**2**) which is—

(a) a wholly-controlled subsidiary of a local authority; and

(b) a non-profit organisation within the meaning of section 115 of the Housing and Regeneration Act 2008(**3**).

(4) For the purposes of paragraph (3)(a) a private registered provider is to be treated as wholly-controlled by a local authority if it has no members apart from—

(a) the local authority;

(b) a subsidiary of that authority; or

(**1**) 2016 c. 22.

(**2**) "Private registered provider" means a private registered provider of social housing as set out in Part 2 of the Housing and Regeneration Act 2008 (c. 17); see section 93(5) of the Housing and Planning Act 2016.

(**3**) 2008 c. 17. Section 115 has been subject to amendments but none is relevant.

(c) a person acting on behalf of the authority or a subsidiary of the authority.

(5) A person is to be treated as a "subsidiary" of another person for the purposes of paragraph (3) or (4) if any of the conditions in section 271 of the Housing and Regeneration Act 2008 is satisfied.

(6) These Regulations apply notwithstanding any inconsistent provision either in a contractual arrangement to which the private registered provider is a party or in the private registered provider's constitution.

Interpretation

2. In these Regulations—

"appointed day" is the day after the end of the period of six months beginning with the day on which the regulations are made;

"board" means—

(a) in the case of a charity which is not a registered company, a board of trustees,

(b) in the case of a company, a board of directors, and

(c) in the case of a registered society, the society's committee(**4**);

"constitution" relates to terms set out in any documentation providing for the constitution of a private registered provider;

"local authority officer" means an officer(**5**) appointed to the board of a private registered provider by a local authority.

PART 2

Officers

Officers of private registered providers

3.—(1) The percentage of officers of a private registered provider who are local authority officers may not, on or after the appointed day, exceed the designated percentage of the total number of officers who are members of the board.

(2) Any appointment of a new local authority officer which would result in that percentage being exceeded on or after the appointed day is of no effect.

(3) The registered provider must remove a sufficient number of local authority officers to secure that the requirement in paragraph (1) is complied with.

(4) The local authority must nominate the local authority officers who are to be removed under paragraph (3); but if it fails to notify the private registered provider of the nomination before the appointed day, the members of the board who are not local authority officers must select by majority vote the persons who are to be removed.

(5) For the purposes of this regulation the designated percentage is 24%.

(**4**) See section 275 of the Housing and Regeneration Act 2008 (c. 17) for the meaning of "registered company" and "registered society".

(**5**) "Officer" in relation to a private registered provider, has the meaning given by section 270 of the Housing and Regeneration Act 2008 (c.17), which includes a trustee in the case of a charity which is not formed as a company, a director in the case of a company, and in the case of a registered society a person co-opted to serve on the society's committee; see section 93(5) of the Housing and Planning Act 2016.