STATUTORY INSTRUMENTS

2016 No. 390

HOUSING, ENGLAND

The Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016

Made - - - -	*17th March 2016*
Laid before Parliament	*18th March 2016*
Coming into force - -	*1st April 2016*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 24(5) to (8), 25(5), 27(1) to (12), 33(6) and (7) of, and paragraphs 1(7) and (8), 4(2), (3), (5) and (6), 5(5) to (8) and 6(5) of Schedule 2 to, the Welfare Reform and Work Act 2016(**1**).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 and come into force on 1st April 2016.

(2) These Regulations apply in England only.

Interpretation

2. In these Regulations—

"the Act" means the Welfare Reform and Work Act 2016;

"the 2008 Act" means the Housing and Regeneration Act 2008(**2**);

"absolute exception" means any of the exceptions mentioned in regulation 3(1)(a), 3(1)(c) to 3(1)(h), 3(1)(j), 3(1)(k), 4(a), 4(b), and 4(d) to 4(i);

"affordable rent housing" has the meaning given in regulation 19;

"almshouse accommodation" means accommodation in an almshouse provided by an almshouse charity;

"alternative provision regulation" means any of regulations 5 to 14;

(**1**) 2016 c 7.
(**2**) 2008 c. 17.

"care home" means an establishment that is a care home for the purposes of the Care Standards Act 2000(**3**);

"community land trust" has the same meaning as in section 79 of the 2008 Act;

"co-operative housing association" and "fully mutual housing association" have the same meaning as in the Housing Associations Act 1985(**4**);

"Guidance on Rents for Social Housing" means the guidance relating to levels of rent for social housing published in May 2014 by the Secretary of State(**5**);

"income qualification criterion" means total household income of £60,000 or more in a relevant tax year, where—

(a) "total household income" means, in relation to accommodation—

(i) if there is one resident, the income of that resident,

(ii) if there are two residents, the sum of the residents' incomes,

(iii) if there are more than two residents, the sum of the two highest incomes of the residents,

(b) "resident" means—

(i) a person who is the tenant or a joint tenant, and

(ii) a person who is the spouse, civil partner or partner of the tenant or of a joint tenant if that person resides at the accommodation,

(c) "income" has the same meaning as "total income" in section 23 of the Income Tax Act 2007(**6**),

(d) "partner" means a person who is not married to, or a civil partner of, the tenant or joint tenant who lives with the tenant or joint tenant in the accommodation as if they were married or in a civil partnership,

(e) "relevant tax year" means the tax year ending on the 5th April which falls in the financial year prior to the financial year in which the relevant year begins, and

(f) "financial year" means a year beginning on 1 April;

"intermediate rent accommodation" means low cost rental accommodation which satisfies the condition in (a) or (b)—

(a) the accommodation—

(i) was built or acquired by the private registered provider without public assistance,

(ii) is provided on an assured shorthold tenancy (other than an assured shorthold tenancy that is expressed to be a probationary or starter tenancy) or licence either—

(aa) to a tenant who is not a person nominated by a local housing authority under section 159(2)(c) of the Housing Act 1996(**7**)

(bb) to a tenant nominated by a local housing authority under section 159(2)(c) where any conditions set by the local housing authority regarding the circumstances in which the registered provider may grant a tenancy of intermediate rent accommodation are satisfied in respect of that accommodation,

(iii) has not previously been let on a social rent basis, and

(**3**) 2000 c. 14; see section 3 which was amended by the Health and Social Care Act 2008 and the Regulation and Inspection of Social Care (Wales) Act 2016.
(**4**) 1985 c. 69; see section 1(2) which was amended by the Co-operative and Community Benefit Societies Act 2014.
(**5**) See the explanatory note for details of how to obtain a copy of this document.
(**6**) 2007 c.3; section 23 was amended by the Finance Act 2009, the Finance Act 2013 and the Finance Act 2014.
(**7**) 1996 c. 52; section 159(2)(c) was amended by S.I. 2010/866.

(iv) is not affordable rent housing, or

(b) the accommodation is low cost rental accommodation which was funded wholly or in part by public assistance under an intermediate rent accommodation enabling programme and any conditions under that programme regarding the circumstances in which the accommodation may be let as intermediate rent accommodation are satisfied;

"intermediate rent accommodation enabling programme" means one of the following programmes—

(a) Keyworker Living Programme 2004 – 2010,

(b) National Affordable Homes Programme 2008 – 2011,

(c) Rent to Buy loan within the Affordable Homes Programme 2015 – 2018,

(d) Rent to Save within the London Mayor's Housing Covenant Programme 2015 – 2018,

(e) Rent to Save within the Homes for Working Londoners Programme 2013 – 2017,

(f) Rent to Save within the Building the Pipeline Programme 2013,

(g) Rent to Buy grant funding within the Affordable Homes Programme 2016 – 2021,

(h) London Housing Bank Programme;

"low cost rental accommodation" has the meaning given in section 69 of the 2008 Act;

"PFI social housing" means—

(a) low cost rental accommodation built, provided or refurbished under a private finance initiative scheme contract where—

(i) one of parties ("the public sector party") to the contract is a local authority,

(ii) the consideration received by the public sector party includes—

(aa) the building, provision or refurbishment of the social housing for the purposes of, or in connection with, the discharge of its functions in relation to social housing, and

(bb) the provision of services for the purposes of, or in connection with, the discharge of those functions, and

(iii) the contract contains a statement that it is entered into under the private finance initiative, or

(b) low cost rental accommodation built, provided or refurbished under a private finance initiative scheme contract where—

(i) the public sector party to the contract is not a local authority,

(ii) the consideration received by the public sector party includes—

(aa) the building, provision or refurbishment of the social housing for the purposes of, or in connection with, the provision of housing to persons working for the public sector party, and

(bb) the provision of services for the purposes of, or in connection with, the provision of housing to those persons, and

(iii) the contract contains a statement that it is entered into under the private finance initiative;

"qualifying year" has the meaning given in regulation 3(5);

"public assistance" means social housing assistance or other public capital grant, subsidy or loan and includes any transfer of land for less than its unrestricted value;

"relevant Housing Act 1996 accommodation" means property to which section 77 of the 2008 Act (housing stock under Housing Act 1996) applies which is not low cost rental accommodation;

"Rent Act 1977 rent criterion" means—

(a) in the case of supported housing which is not specialised supported accommodation, that the rent registered under the Rent Act 1977(**8**) is lower than—

(i) the social rent rate as modified by regulation 10 on any date falling within a previous relevant year, or

(ii) in a case where the tenancy began at or before the beginning of 8 July 2015, 110% of formula rent for the year 2015-16 calculated in accordance with the Schedule on—

(aa) 8 July 2015, or

(bb) the permitted review day(**9**), in a case where the amount payable at the beginning of the permitted review day was greater than the amount payable at the beginning of 8 July 2015,

(b) in any other case, that the rent registered under the Rent Act 1977 is lower than—

(i) the social rent rate on any date falling within a previous relevant year, or

(ii) in a case where the tenancy began at or before the beginning of 8 July 2015, formula rent for the year 2015-16 calculated in accordance with the Schedule on—

(aa) 8 July 2015, or

(bb) the permitted review day, in a case where the amount payable at the beginning of the permitted review day was greater than the amount payable at the beginning of 8 July 2015;

"the Rent Standard" means the standard published in January 2015 by the regulator under section 194(2A) of the Housing and Regeneration Act 2008 (the powers of the regulator to set standards relating to levels of rent)(**10**);

"the Rent Standard Guidance 2015" means the guidance on the Rent Standard published in January 2015 by the regulator;

"social housing assistance" has the meaning given in section 32 of the 2008 Act(**11**);

"social rent basis" means—

(a) a rent determined in accordance with the principles set out in one of the following—

(i) chapter 3 of the Rent Standard Guidance 2015,

(ii) chapter 3 of the Rent Standard Guidance 2012 published by the regulator in March 2012,

(iii) chapter 2 of the Guidance on Rents for Social Housing,

(iv) Rent Influencing Regime guidance published by the Housing Corporation in October 2001, or

(v) Guide to Social Rent Reforms published by the Secretary of State in March 2001, or

(b) subject to a maximum rent determined in accordance with paragraph 1 or 2 of Schedule 2 to the Act;

"specialised supported housing" means supported housing—

(**8**) 1977 c. 42; see section 87 which was amended by the Housing Act 1980, the Housing Act 1988 and S.I. 1993/651.
(**9**) See section 23(3) of the Act for the definition of permitted review day.
(**10**) See the explanatory note for details of how to obtain a copy of this document.
(**11**) There has been an amendment to section 32 which is not relevant.

(a) which is designed, structurally altered, refurbished or designated for occupation by, and made available to, residents who require specialised services or support in order to enable them to live, or to adjust to living, independently within the community,

(b) which offers a high level of support, which approximates to the services or support which would be provided in a care home, for residents for whom the only acceptable alternative would be a care home,

(c) which is provided by a private registered provider under an agreement or arrangement with—

(i) a local authority, or

(ii) the health service within the meaning of the National Health Service Act 2006(**12**),

(d) in respect of which the rent charged or to be charged complies with the agreement or arrangement mentioned in paragraph (c), and

(e) in respect of which either—

(i) there was no public assistance, or

(ii) if there was public assistance, it was by means of a loan secured by means of a charge or a mortgage against a property;

"student accommodation" means low cost rental accommodation provided by a registered provider pursuant to an agreement which grants a right of occupation in a building or dwelling that is used wholly or mainly for the accommodation of persons who are in full-time education at a university, college, school or other educational establishment;

"supported housing" means low cost rental accommodation provided by a registered provider which—

(a) is made available only in conjunction with the supply of support,

(b) is made available exclusively to residents who have been identified as needing support, and

(c) falls into one or both of the following categories—

(i) accommodation that has been designed, structurally altered or refurbished in order to enable residents to live independently,

(ii) accommodation that has been designated as being available only to individuals within an identified group with specific support needs;

"support" includes—

(a) sheltered accommodation,

(b) extra care housing,

(c) domestic violence refuges,

(d) hostels for the homeless,

(e) support for people with drug or alcohol problems,

(f) support for people with mental health problems,

(g) support for people with learning disabilities,

(h) support for people with disabilities,

(i) support for offenders and people at risk of offending,

(j) support for young people leaving care,

(k) support for teenage parents

(**12**) 2006 c.41. See section 275.