Draft Regulations laid before Parliament under section 9(3) of the Prevention of Social Housing Fraud Act 2013, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

HOUSING, ENGLAND

The Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014

Made - - - - ***

Coming into force in accordance with regulation 1(1)

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 7, 8 and 9(2)(b) and (c) of the Prevention of Social Housing Fraud Act 2013(**1**).

In accordance with section 9(3) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014 and come into force on the third day after the day on which they are made.

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

Interpretation

2.—(1) In these Regulations—

"authorised officer" means a person acting in accordance with any authorisation for the purposes of these Regulations which is for the time being in force in relation to that person.

(2) For the purposes of these Regulations—

(a) references to a document include references to anything in which information is recorded in electronic or any other form;

(b) the requirement that notice be given by an authorised officer in writing shall be taken to be satisfied in any case where the contents of the notice—

(i) are transmitted to the recipient of the notice by electronic means; and

(**1**) 2013 c.3

(ii) are received by that person in a form that is legible and capable of being recorded for future reference.

Authorisations by local authorities

3.—(1) Subject to paragraphs (2) and (3), a local authority may grant an authorisation to an individual to exercise the powers conferred on an authorised officer under regulation 4.

(2) A local authority may only grant authorisation to an individual if that person is—

(a) an individual employed by that authority;

(b) an individual employed by another local authority or joint committee that carries out functions relating to housing fraud investigation purposes on behalf of that authority.

(3) An authorisation granted to an individual for the purposes of these Regulations—

(a) must be in writing and provided to that individual as evidence of that individual's entitlement to exercise powers conferred by these Regulations;

(b) may contain provision as to the period for which the authorisation is to have effect; and

(c) may restrict the powers exercisable by virtue of the authorisation so as to prohibit their exercise except for particular purposes or in particular circumstances.

(4) An authorisation may be withdrawn at any time in writing by the local authority that granted it.

(5) The written authorisation or withdrawal of an authorisation by any local authority must be issued under the hand of either—

(a) the officer designated under the section 4 of the Local Government and Housing Act 1989(**2**) as the head of the authority's paid service; or

(b) the officer who is the authority's chief finance officer (within the meaning of section 5 of that Act).

(6) A local authority may grant an authorisation for housing fraud investigation purposes in relation to offences in the area of another local authority, as well as in relation to offences in the area of the authority granting the authorisation.

Power to require information

4.—(1) An authorised officer may exercise the powers conferred by this regulation for any of the housing fraud investigation purposes (but not for any other purpose).

(2) An authorised officer who has reasonable grounds for suspecting that a person—

(a) is a person falling within paragraph (3) below, and

(b) has or may have possession of or access to any information about any matter that is relevant to housing fraud investigation purposes,

may, by written notice, require that person to provide all such information described in the notice of which that person has possession, or to which that person has access, and which it is reasonable for the authorised officer to require for the purpose so mentioned.

(3) The persons who fall within this paragraph are—

(a) any bank;

(b) any person carrying on a business the whole or a significant part of which consists in the provision of credit (whether secured or unsecured) to members of the public;

(c) any water undertaker or sewerage undertaker;

(**2**) 1989 c.42; amendments have been made to section 4 but they are not relevant to these Regulations.

(d) any person who—

(i) is the holder of a licence under section 7 of the Gas Act 1986(**3**) to convey gas through pipes; or,

(ii) is the holder of a licence under section 7A of that Act(**4**) to supply gas through pipes;

(e) any person who (within the meaning of the Electricity Act 1989(**5**)) distributes or supplies electricity;

(f) any person who provides a telecommunications service;

(g) any servant or agent of any person mentioned in sub-paragraphs (a) to (f).

(4) Subject to the following provisions of this regulation, the powers conferred by this regulation on an authorised officer to require information from any person by virtue of that person falling within paragraph (3) shall be exercisable for the purpose only of obtaining information relating to a particular person identified (by name or description) by the officer.

(5) An authorised officer shall not, in exercise of those powers, require any information from any person by virtue of that person falling within paragraph (3) unless it appears to that officer that there are reasonable grounds for believing that the person to whom it relates is—

(a) a person who has committed, is committing or intends to commit an offence listed in section 7(7) of the Prevention of Social Housing Fraud Act 2013; or

(b) a person who is a member of the family of a person falling within subparagraph (a).

(6) The powers conferred by this regulation shall not be exercisable for obtaining from any person providing a telecommunications service any information other than information which (within the meaning of section 21 of the Regulation of Investigatory Powers Act 2000(**6**)) is communications data but not traffic data.

(7) An authorised person may exercise the powers conferred by this regulation to require, from a person who provides a telecommunications service, information about the identity and postal address of a person identified by the authorised officer solely by reference to a telephone number or electronic address used in connection with the provision of such a service.

(8) The obligation of a person to provide information in accordance with a notice under this regulation shall be discharged only by the provision of that information, at such reasonable time and in such form as may be specified in the notice, to the authorised officer who—

(a) is identified by or in accordance with the terms of the notice; or

(b) has been identified, since the giving of the notice, by a further written notice given by the authorised officer who imposed the original requirement or another authorised officer.

(9) The power of an authorised officer under this regulation to require the provision of information shall include a power to require the production and delivery up and (if necessary) creation of any such documents containing the information as may be specified or described in the notice imposing the requirement, or the creation of copies of or extracts from any such documents.

(10) No person shall be required under this regulation to provide—

(a) any information that tends to incriminate either that person or, in the case of a person who is married or is a civil partner, that person's spouse or civil partner; or

(**3**) 1986 c.44; section 7 was substituted by section 5 Gas Act 1995 (c.45) and subsection (1) was subsequently amended by section 76 of the Utilities Act 2000 (c.27). Other amendments to section 7 are not relevant to these Regulations.

(**4**) Section 7A was inserted by section 6(1) of the Gas Act 1995 (c.45). Subsections (1) and (2) were subsequently amended by section 3(2) Utilities Act 2000 (c.27); subsection (2) was further amended by paragraphs 1 and 2 of Schedule 6 to that Act; and subsection (3) was amended by section 149 of the Energy Act 2004 (c.20). Other amendments have been made to section 7A but they are not relevant to these Regulations.

(**5**) 1989 c.29

(**6**) 2000 c.23; an amendment has been made to section 21(5) but is not relevant to these Regulations.