Draft Order laid before Parliament under section 320(3) of the Housing and Regeneration Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No.

HOUSING, ENGLAND AND WALES

The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010

*Made - - - - ****
Coming into force in accordance with Article 1(2) and (3)

The Secretary of State, in exercise of the powers conferred by sections 114, 320(1) and 321(2) of the Housing and Regeneration Act 2008(**1**) and after consultation in accordance with section 114(6) of that Act, makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010.

(2) Articles 3 to 6 and Schedules 1 and 2 come into force on 1st April 2010.

(3) The remaining provisions of this Order come into force on the day after the day on which this Order is made.

(4) An amendment or repeal made by this Order has the same extent as the provision to which it relates.

Interpretation

2. In this Order, "the Act" means the Housing and Regeneration Act 2008.

Requirement to register

3.—(1) The regulator shall register an English local authority if the regulator becomes aware that the authority—

(a) is a provider of social housing, or

(b) intends to become a provider of social housing.

(**1**) 2008 c. 17.

(2) Once registered, the authority remains registered unless and until removed under section 118(4) of the Act (inserted by Schedule 1 to this Order).

(3) In this article—

"English local authority" means—

(a) a local housing authority in England, or

(b) a county council in England;

"register" means enter in the register established under Chapter 3 of Part 2 of the Act.

Removal of exception for persons controlled by local authorities

4. In section 113 of the Act (local authority non-registrable bodies), subsections (4), (5) and (6) are omitted.

Amendment of Part 2

5. Part 2 of the Act is further amended as provided in Schedule 1.

Amendment of other enactments

6. The enactments mentioned in Schedule 2 are amended as provided there.

Transitional provision

7.—(1) In relation to English local authorities that will be registered by virtue of article 3, the powers mentioned in paragraph (2) may be exercised before the date on which that article comes into force for the purpose of giving full effect to it on or after that date.

(2) The powers are—

(a) the power to set standards under section 193 of the Act,

(b) the power to issue a code of practice under section 195 of the Act, and

(c) the power to give directions under section 197 of the Act.

(3) For that purpose—

(a) consultation with one or more bodies appearing to the regulator or, as the case may be, the Secretary of State to represent the interests of potential registrants is sufficient to satisfy the requirements of section 196(1)(a) or, as the case may be, 197(4)(f) of the Act, and

(b) consultation in accordance with the provisions of section 196(1) or, as the case may be, 197(4) of the Act (as modified by paragraph (a)) is sufficient to satisfy the requirements of those provisions even if it is carried out before this Order is made.

(4) "Potential registrants" means English local authorities that may be required to be registered when article 3 comes into force.

Signed by authority of the Secretary of State for Communities and Local Government

Name
Minister of State
Department for Communities and Local Government

Date

SCHEDULES

SCHEDULE 1

Article 5

Amendment of Part 2 of the Act

Chapter 1 (introduction)

1. In section 60 (structural overview), in the Table in subsection (4)—

(a) in the third column of the entry for Chapter 5, at the end insert "by private registered providers",

(b) in the second column of the entry for Chapter 7, for "269" substitute "269B", and

(c) in the fourth column of the entry for Chapter 7, at the end insert—

"(h) Censure of local authority employees".

2.—(1) Section 75 (leaving the social housing stock: disposal with consent) is amended as follows.

(2) After subsection (1) insert—

"(1A) A dwelling ceases to be social housing if it is—

(a) disposed of with the Secretary of State's consent in accordance with section 32 or 43 of the Housing Act 1985 (disposals by local authorities),

(b) appropriated with the Secretary of State's consent in accordance with section 19(2) of that Act (appropriation by local authorities for some other purpose), or

(c) disposed of by a local authority with the Secretary of State's consent in accordance with any other enactment."

(3) In subsections (2) and (3), for "Subsection (1) does" substitute "Subsections (1) and (1A) do".

3. In section 76 (leaving the social housing stock: regulator's direction), after subsection (2) insert—

"(3) A direction may not be made if the provider is a local authority.".

4. In section 79 (English bodies), in subsection (1)(e)(i), after "1996 (c. 52)" insert "or a local authority in Wales"

5. In section 80 (provider of social housing), after subsection (2) insert—

"(3) Persons listed in the register who are not local authorities—

(a) may be referred to in an enactment or other instrument as "private registered providers of social housing", and

(b) are referred to in this Part as "private registered providers"."

Chapter 2 (the Social Housing Regulator)

6. In section 94 (studies), after subsection (2) insert—

"(3) Nothing in subsection (1) permits the regulator, in relation to local authorities, to carry out or commission studies about the performance of housing functions other than their functions as a provider of social housing."

7. In section 95 (financial assistance), in subsection (3), for "a registered provider" substitute "a private registered provider".

8. In section 96 (evidence), in paragraph (d), at the beginning insert "the Commission for Local Administration in England or".

9. After section 106 insert—

"**106A. Cooperation with the Audit Commission**

(1) The regulator shall cooperate with the Audit Commission for Local Authorities and the National Health Service in England.

(2) In particular, the regulator shall consult the Audit Commission on matters concerning local authorities."

10. In section 107 (collection), in subsection (1), for paragraph (b) substitute—

"(b) activities which are or may be carried out by—

(i) a person who is, or who has applied to become, a registered provider, or

(ii) a local authority in England which the regulator thinks may be, or may become, a provider of social housing."

Chapter 3 (registration)

11.—(1) Section 112 (eligibility for registration) is amended as follows.

(2) In subsection (4)(b), for "registered providers" substitute "private registered providers".

(3) After subsection (4) insert—

"(5) Section 114 deals with bodies falling within the exceptions in section 113."

(4) The heading becomes "Eligibility for voluntary registration".

12. The heading to section 113 becomes "Section 112: exceptions".

13. After section 114 insert—

"**Local authorities: duty to notify**

114A.—(1) A local authority in England which is not subject to compulsory registration must notify the regulator as soon as it becomes subject to compulsory registration.

(2) For these purposes, an authority is subject to compulsory registration if—

(a) it is a provider of social housing, or

(b) it intends to become a provider of social housing."

14. In section 115 (profit-making and non-profit organisations), after subsection (9) insert—

"(10) Subsection (1) does not apply to the entry of a local authority in the register (and, accordingly, references to "profit-making" and "non-profit" in connection with a registered provider do not refer to a local authority)."

15.—(1) Section 116 (entry) is amended as follows.

(2) In subsection (1)(a), after "registration" insert "under section 112(1)".