



# Housing (Scotland) Act 2010

## 2010 asp 17

VALID FROM 01/04/2011

### PART 1

#### THE SCOTTISH HOUSING REGULATOR

##### *The Regulator*

#### **1 The Scottish Housing Regulator**

There is established a body corporate to be known as the Scottish Housing Regulator.

#### **2 The Regulator's objective**

- (1) The Regulator's objective is to safeguard and promote the interests of persons who are or who may become—
  - (a) homeless,
  - (b) tenants of social landlords, or
  - (c) recipients of housing services provided by social landlords.
- (2) The Regulator must, so far as is reasonably practicable, perform its functions in a way—
  - (a) which is compatible with its objective, and
  - (b) which it considers most appropriate for the purpose of meeting that objective.

#### **3 The Regulator's functions**

- (1) The Regulator's general functions are—
  - (a) to keep a publicly available register of social landlords, and
  - (b) to monitor, assess and report regularly on (and, where appropriate, to make regulatory interventions relating to)—
    - (i) social landlords' performance of housing activities, and

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(ii) registered social landlords' financial well-being and standards of governance.

- (2) The Regulator must perform its functions in a way which—
- (a) is proportionate, accountable and transparent,
  - (b) is targeted only where action is needed,
  - (c) encourages equal opportunities and in particular the observance of the requirements of the law for the time being relating to equal opportunities, and
  - (d) is consistent with any other principle which appears to it to represent best regulatory practice.

#### **4 Statement on performance of functions**

- (1) The Regulator—
- (a) must prepare a statement setting out how it intends to perform its functions,
  - (b) must review that statement from time to time (and may revise it following such a review), and
  - (c) must publish that statement (and any revision).
- (2) The statement must include information on how the Regulator intends—
- (a) to meet its objective, and
  - (b) to perform its functions in the way described in section 3(2).
- (3) In preparing the statement the Regulator must take into account the different types of social landlord, for example by taking into account—
- (a) legal status and governance arrangements,
  - (b) property owned or managed,
  - (c) annual turnover,
  - (d) number of employees.
- (4) Before preparing the statement (and when reviewing it), the Regulator must—
- (a) have regard to the interests of persons who may become—
    - (i) homeless, or
    - (ii) tenants of social landlords, and
  - (b) consult—
    - (i) Ministers,
    - (ii) tenants of social landlords or their representatives,
    - (iii) homeless persons or bodies representing the interests of homeless persons,
    - (iv) recipients of housing services provided by social landlords or their representatives,
    - (v) social landlords or their representatives,
    - (vi) secured creditors of registered social landlords or their representatives, and
    - (vii) the Accounts Commission for Scotland.

#### **5 Involvement of representative bodies**

- (1) Where the Regulator considers it appropriate, it must—

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- (a) consult representative bodies about the performance of its general functions (for example, by holding meetings), and
  - (b) involve representative bodies in the performance of its general functions (for example, by appointing them to committees).
- (2) The representative bodies referred to in subsection (1) are—
  - (a) representatives of homeless persons,
  - (b) representatives of tenants of social landlords, and
  - (c) representatives of recipients of housing services.
- (3) The Regulator must publish a statement about how it intends to comply with subsection (1).

## **6 Involvement of the Accounts Commission**

- (1) The Regulator must, at such intervals and in such manner as it considers appropriate, consult the Accounts Commission for Scotland about the performance of the Regulator's general functions in relation to local authority landlords.
- (2) The Regulator must publish a statement about how it intends to comply with subsection (1).

## **7 Independence from Ministers**

Ministers must not—

- (a) give directions relating to, or
  - (b) otherwise seek to control,
- the performance of the Regulator's functions.

This section is subject to any contrary provision in this or any other enactment.

### *Membership*

## **8 The Regulator's membership**

- (1) The Regulator is to consist of such number of members (but not fewer than 3) as Ministers think fit.
- (2) Each member—
  - (a) is to be appointed by Ministers from among those persons appearing to them to have knowledge and skills relevant to the functions of the Regulator,
  - (b) is to be appointed for such period as is specified in the appointment,
  - (c) may, by notice to Ministers, resign as a member,
  - (d) in other respects holds and vacates office on such terms and conditions as Ministers may determine, and
  - (e) after ceasing to hold office, may be reappointed as a member.

## **9 Disqualification and removal from office**

- (1) A person is disqualified from appointment, and from holding office, as a member of the Regulator if that person is—

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- (a) a member of the Scottish Parliament,
- (b) a member of the House of Commons,
- (c) a member of the European Parliament,
- (d) an office-holder in the Scottish Administration,
- (e) a councillor of any local authority,
- (f) an officer of any registered social landlord (other than by virtue of this Act),
- (g) an employee of any local authority, or
- (h) an employee of any registered social landlord.

(2) Ministers may remove a member from office if satisfied that—

- (a) the member is an undischarged bankrupt, or
- (b) the member—
  - (i) has been absent from meetings of the Regulator for a period longer than 6 consecutive months without the permission of the Regulator, or
  - (ii) is unable to discharge the member's functions as a member or is unsuitable to continue as a member.

## **10 Members' expenses**

The Regulator may pay to its members such sums as it may determine by way of reimbursement of expenses incurred in respect of the performance of their functions.

### *Chairing and proceedings*

## **11 Chairing**

(1) Ministers—

- (a) must appoint one of the Regulator's members to chair meetings of the Regulator, and
- (b) may appoint another of the Regulator's members to act as deputy to that member.

(2) A member so appointed vacates office on ceasing to be a member of the Regulator.

(3) The member appointed to chair the meetings and any member appointed to act as deputy to that member otherwise hold and vacate office as such in accordance with the terms of their appointments.

(4) A member so appointed may, by notice to Ministers, resign from office as such.

(5) Where a member—

- (a) is appointed to chair meetings or to act as deputy, or
- (b) ceases to hold office as such,

Ministers may vary the terms of the member's appointment so as to alter the date on which office as a member is to be vacated.

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## **12 The Regulator's proceedings**

- (1) The Regulator may regulate its own procedure (including any quorum) and that of any of its committees.
- (2) The validity of any proceedings or acts of the Regulator is not affected by any—
  - (a) vacancy in its membership, or
  - (b) defect in the appointment of a member.

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### *Staff and property*

## **13 The Regulator's chief executive**

- (1) The Regulator is to appoint, as a member of staff, a chief executive.
- (2) Ministers are to appoint the first chief executive of the Regulator on such terms as they may determine.
- (3) Before appointing the first chief executive, Ministers must consult the member of the Regulator appointed to chair meetings of the Regulator (if a person holds that office).
- (4) The Regulator may, with the approval of Ministers, appoint subsequent chief executives on such terms as it may, with the approval of Ministers, determine.
- (5) The chief executive is to be appointed from among persons who appear—
  - (a) as regards the first appointment, to Ministers, and
  - (b) as regards subsequent appointments, to the Regulator,to have knowledge and skills relevant to the functions of the Regulator.
- (6) The Regulator may, with the approval of Ministers—
  - (a) vary any terms of a person's appointment as chief executive, or
  - (b) terminate a person's appointment as chief executive if satisfied that the person is not performing the functions of that post adequately.

## **14 The Regulator's other staff and property**

- (1) The Regulator may appoint, on such terms as it may determine, other members of staff.
- (2) The Regulator must obtain the approval of Ministers for the terms of such staff.
- (3) Schedule 1 makes transitional provisions about the Regulator's staff and property.

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## *Powers*

### **15 The Regulator's general powers**

- (1) The Regulator may do anything which appears necessary or expedient for the purpose of, or in connection with, the performance of its functions.
- (2) The Regulator may not however—
  - (a) acquire or dispose of land without the consent of Ministers,
  - (b) borrow money,
  - (c) give guarantees without the consent of Ministers, or
  - (d) determine the location of its office premises without the approval of Ministers.

### **16 Delegation of powers**

Any function of the Regulator may be performed on its behalf—

- (a) by any person (whether or not a member of the Regulator or its staff) authorised by the Regulator to do so, and
- (b) to the extent so authorised.

This section does not affect the Regulator's responsibility for performance of, or its ability to perform, delegated functions.

## *Studies, co-operation and annual reports*

### **17 Studies**

- (1) The Regulator may carry out, or commission, studies or research to inform its approach towards meeting its objective.
- (2) The Regulator may publish a report on any study or research.

### **18 Co-operation with other regulators**

- (1) The Regulator must, so far as consistent with the proper performance of its functions, seek to secure co-operation between it and other relevant regulators.
- (2) “Relevant regulators” are—
  - (a) the Office for Tenants and Social Landlords,
  - (b) the Office of the Scottish Charity Regulator,
  - (c) Healthcare Improvement Scotland,
  - (d) Social Care and Social Work Improvement Scotland,
  - (e) the Scottish Public Services Ombudsman,
  - (f) the Financial Services Authority,
  - (g) the registrar of companies, and
  - (h) the Accounts Commission for Scotland.
- (3) The Regulator may disclose any information to any relevant regulator—
  - (a) for any purpose connected with the performance of the Regulator's functions,
 or

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- (b) for the purpose of enabling or assisting the relevant regulator to perform any functions.

## **19 Annual reports**

- (1) As soon as practicable after 31 March in each year, the Regulator must—
  - (a) prepare and publish a general report on the exercise of its functions during the 12 month period ending on 31 March,
  - (b) lay a copy of it before the Scottish Parliament, and
  - (c) send a copy of it to Ministers.
- (2) A general report must include information about the use of the Regulator's powers under Parts 4 and 5 of this Act.
- (3) It is otherwise for the Regulator to determine the form and content of a general report and by what means it is to be published.

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