

HOUSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

STRUCTURE OF THE ACT

Part 2 – Registered Social Landlords

The register of social landlords

28. [Section 20](#) places a duty on the regulator to maintain an accessible register of social landlords. Subsection (2) prevents local authorities and local authority landlords from being included in the register. Subsection 4 specifies the information that must be held in the register.
29. [Section 21](#) provides for the transition from the previous register of social landlords maintained by the Scottish Housing Regulator on behalf of Scottish Ministers to the new register created by this Act. The new register will include all those bodies on the Scottish Housing Regulator’s register at the date of commencement of the section.
30. [Section 22](#) provides the regulator with powers to determine the way in which an application must be made and the type of information the body applying for registration must provide.
31. [Section 23](#) places the regulator under a duty to include in the register every applicant body which it considers meets the registration criteria. Subsection (2) states that the registration criteria are made up of the legislative registration criteria and the regulatory registration criteria. Subsection (3) provides that as long as a body is on the register then it should be presumed that it is eligible for registration even if it is subsequently removed from the register.

Registration criteria

32. [Section 24](#) sets out the criteria (the ‘legislative registration criteria’) that a body must meet before it can be registered as a social landlord. The criteria are that a body does not trade for profit; that it is established for the purpose of, or has among its objects and powers, the provision, construction, improvement or management of houses to be kept available for letting or for occupation by its members, or of hostels. The body must operate, or intend to operate, in Scotland. Section 24(1)(d) prescribes a number of additional purposes or objects that a body is able to carry out in addition to the criteria at 24(1)(a), (b) and (c).
33. [Section 24\(3\)\(a\)](#) provides Ministers with the power by order to amend the additional purposes, objects and powers specified in section 24(1)(d) and 24(2). Section 24(3)(b) gives Ministers the power to make, amend or modify a provision in the Act which they consider to be appropriate to adapt the Act so that it applies to bodies that have a status other than that of a registered society or registered company. Ministers are required to consult the regulator and tenants, social landlords and secured creditors of RSLs (or representatives of these groups), and to have regard to the interests of people who may become homeless or who are on social landlords’ waiting lists, before making an order under this section. An order that restricts or limits purposes or objects in section 24(1)

(d) has no effect in relation to a body registered as a social landlord when the order was made.

34. [Section 25](#) provides the regulator with powers to set regulatory registration criteria about a body's financial situation, the arrangements for its governance and financial management and the manner in which it provides housing services. The regulator is able to set different criteria for different types of bodies. The regulator must consult interested parties before setting, revising or withdrawing any criteria.
35. [Section 26](#) requires the regulator to issue guidance on how it will assess whether a body meets the registration criteria and to make this available to those with an interest in the guidance. Before issuing, revising or withdrawing guidance the regulator must consult Scottish Ministers, registered social landlords or their representatives, tenants of RSLs or their representatives, and secured creditors of RSLs or their representatives.

Removal from register

36. [Section 27](#) provides that the regulator may remove a body from the register if it considers that the body no longer meets the registration criteria, has never met those criteria, has ceased to carry out activities or has ceased to exist (it could also remove a body on receipt of an application under section 27). Under subsection (2) the regulator may require the body to provide information to demonstrate that it meets any of the registration criteria. Before it removes a body from the register, the regulator must give the body at least 14 days notice and have regard to any views expressed by the body in that period.
37. [Section 28](#) requires the regulator to set criteria for voluntary de-registration and to remove from the register, at its request, a landlord that meets those criteria. The regulator must consult Scottish Ministers, tenants of registered social landlords or their representatives, registered social landlords or their representatives and secured creditors of registered social landlords or their representatives and inform those affected of any change or replacement of de-registration criteria.

Appeals

38. [Section 29](#) provides an appeal mechanism for bodies aggrieved by a decision of the regulator not to register it as a social landlord or to remove it, or not to remove it, from the register. The appeal is to the Court of Session. Subsection (2) provides for the actions that the Court may take to decide an appeal. Under subsection (3), where the appeal is against the decision relating to the removal of a body from the register, the regulator must not remove the body from the register until the appeals process is complete.

Communication with other regulators

39. [Section 30](#) requires the regulator to notify other regulators of its decision to register or de-register a body and of the outcome of any appeal against such a decision.