



# Housing and Regeneration Act 2008

## 2008 CHAPTER 17

### PART 2

#### REGULATION OF SOCIAL HOUSING

#### CHAPTER 4

#### REGISTERED PROVIDERS

#### *Accounts*

#### 127 Directions

- (1) The regulator may give directions to registered providers about the preparation of their accounts.
- (2) A direction may be given to a profit-making registered provider only in so far as its accounts relate to social housing activities.
- (3) The power must be exercised with a view to ensuring that accounts—
  - (a) are prepared in proper form, and
  - (b) present a true and fair view of—
    - (i) the state of affairs of each registered provider in relation to its social housing activities, and
    - (ii) the disposition of funds and assets which are, or have been, in its hands in connection with those activities.
- (4) A direction may require a registered charity to use a specified method for distinguishing in its accounts between—
  - (a) matters relating to its social housing activities, and
  - (b) other matters.
- (5) A direction—

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- (a) may make provision that applies generally or only to specified cases, circumstances or registered providers, and
  - (b) may make different provision for different cases, circumstances or registered providers.
- (6) A direction that relates to more than one registered provider may be given only after consulting one or more bodies appearing to the regulator to represent the interests of registered providers.
- (7) The regulator shall make arrangements for bringing a direction to the attention of every registered provider to which it applies.

#### Commencement Information

- II** S. 127(6) in force at 8.9.2008 for specified purposes by S.I. 2008/2358, **art. 3(1)** (with **art. 3(3)(4)**)

VALID FROM 01/04/2010

#### 128 Submission to regulator

- (1) Each registered provider shall send a copy of its accounts to the regulator within the period of 6 months beginning with the end of the period to which the accounts relate.
- (2) The accounts must be accompanied by—
  - (a) an auditor's report, or
  - (b) in the case of accounts that by virtue of an enactment are not subject to audit, any report that is required to be prepared in respect of the accounts by virtue of an enactment.
- (3) The report must specify whether the accounts comply with any relevant directions under section 127.

VALID FROM 01/04/2010

#### 129 Companies exempt from audit

- (1) This section applies in relation to a registered provider which—
  - (a) is a registered company other than a charity, and
  - (b) is exempt from the audit requirements of the Companies Act 2006 (c. 46) by virtue of section 477 of that Act (small companies' exemption).
- (2) The directors of the company shall cause a report to be prepared in accordance with section 130 and made to the company's members in respect of the company's individual accounts for any year in which the company takes advantage of its exemption from audit.
- (3) “Individual accounts” has the same meaning as in section 396 of the Companies Act 2006.

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VALID FROM 01/04/2010

### **130 Exempt companies: accountant's report**

- (1) The report required by section 129 must be prepared by a person (“the reporting accountant”) who is eligible under section 131.
- (2) The report must state whether the individual accounts are in accordance with the company's accounting records kept under section 386 of the Companies Act 2006.
- (3) On the basis of the information contained in the accounting records the report must also state whether—
  - (a) the accounts comply with Part 15 of the Companies Act 2006;
  - (b) the company is entitled to exemption from audit under section 477 of that Act (small companies' exemption) for the year in question.
- (4) The report must give the name of the reporting accountant and be signed and dated.
- (5) The report must be signed—
  - (a) where the reporting accountant is an individual, by that individual, and
  - (b) where the reporting accountant is a firm, for and on behalf of the firm by an individual authorised to do so.
- (6) In this section and sections 131 and 132 “firm” has the meaning given by section 1173(1) of the Companies Act 2006.

### **131 Exempt companies: reporting accountant**

- (1) A person is eligible for appointment by a company as a reporting accountant under section 130 if—
  - (a) either of the following conditions is satisfied, and
  - (b) the person would not be prohibited from acting as auditor of the company by virtue of section 1214 of the Companies Act 2006 (c. 46).
- (2) Condition 1 is satisfied if the person is a member of a body listed in subsection (4) and under its rules—
  - (a) the person is entitled to engage in public practice, and
  - (b) is not ineligible for appointment as a reporting accountant.
- (3) Condition 2 is satisfied if the person—
  - (a) is subject to the rules of a body listed in subsection (4) in seeking appointment or acting as a statutory auditor under Part 42 of the Companies Act 2006, and
  - (b) under those rules, is eligible for appointment as a statutory auditor under that Part.
- (4) The bodies mentioned in subsections (2) and (3) are—
  - (a) the Institute of Chartered Accountants in England and Wales,
  - (b) the Institute of Chartered Accountants of Scotland,
  - (c) the Institute of Chartered Accountants in Ireland,
  - (d) the Association of Chartered Certified Accountants,
  - (e) the Association of Authorised Public Accountants,

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- (f) the Association of Accounting Technicians,
  - (g) the Association of International Accountants,
  - (h) the Chartered Institute of Management Accountants, and
  - (i) the Institute of Chartered Secretaries and Administrators.
- (5) The Secretary of State may by order amend the list of bodies in subsection (4).
- (6) References in this section to the rules of a body are to rules (whether or not laid down by the body itself) which the body has power to enforce and which are relevant for the purposes of Part 42 of the Companies Act 2006 (statutory auditors) or this section; and this includes rules relating to the admission and expulsion of members of the body so far as relevant for the purposes of that Part or this section.
- (7) An individual or a firm may be appointed as a reporting accountant; and section 1216 of the Companies Act 2006 applies to the appointment of a partnership constituted under the law of—
- (a) England and Wales,
  - (b) Northern Ireland, or
  - (c) any other country or territory in which a partnership is not a legal person.

#### Commencement Information

**I2** [S. 131\(5\)](#) in force at 8.9.2008 by [S.I. 2008/2358](#), [art. 3\(1\)](#)

VALID FROM 01/04/2010

#### **132** Application of Companies Act

- (1) The provisions of the Companies Act 2006 listed in subsection (2) apply to the reporting accountant and a reporting accountant's report as they apply to an auditor of the company and an auditor's report on the company's accounts (with any necessary modifications).
- (2) The provisions are—
- (a) sections 423 to 425 (duty to circulate copies of annual accounts),
  - (b) sections 431 and 432 (right of member or debenture holder to demand copies of accounts),
  - (c) sections 434 to 436 (requirements in connection with publication of accounts),
  - (d) sections 441 to 444A (duty to file accounts with registrar of companies),
  - (e) section 454(4)(b) and regulations made under that provision (functions of auditor in relation to revised accounts),
  - (f) sections 499 to 502 (auditor's right to information), and
  - (g) sections 505 and 506 (name of auditor to be stated in published copies of report).
- (3) In sections 505 and 506 as they apply by virtue of this section in a case where the reporting accountant is a firm, any reference to the senior statutory auditor shall be read as a reference to the person who signed the report on behalf of the firm.

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### **133 Exempt companies: extraordinary audit**

- (1) This section applies where, in accordance with section 129, a company appoints a reporting accountant to prepare a report in respect of its accounts for any year.
- (2) The regulator may require the company to—
  - (a) cause a qualified auditor to audit its accounts and balance sheet for that year, and
  - (b) send a copy of the report to the regulator by a specified date.
- (3) A requirement may not be imposed before the end of the financial year to which it relates.
- (4) “Qualified auditor”, in relation to a company, means a person who—
  - (a) is eligible for appointment as a statutory auditor of the company under Part 42 of the Companies Act 2006 (c. 46) (statutory auditors), and
  - (b) is not prohibited from acting as statutory auditor of the company by virtue of section 1214 of that Act (independence requirement).

VALID FROM 01/04/2010

### **134 Non-audited industrial and provident society**

- (1) This section applies to a registered provider which is an industrial and provident society.
- (2) Section 9A of the Friendly and Industrial and Provident Societies Act 1968 (c. 55) applies to the society as if subsection (1)(b) were omitted (accountant's report required only where turnover exceeds specified sum).
- (3) The regulator may require the society to—
  - (a) appoint a qualified auditor to audit the society's accounts and balance sheet for any year of account in respect of which section 4 of the Friendly and Industrial and Provident Societies Act 1968 (audit requirements) has been disapplied (see section 4A of that Act), and
  - (b) send a copy of the auditor's report to the regulator by a specified date.
- (4) A requirement under subsection (3) may be imposed only during the year of account following the year to which the accounts relate.
- (5) In this section—

“qualified auditor” means a person who is a qualified auditor for the purposes of Friendly and Industrial and Provident Societies Act 1968 (c. 55), and

“year of account” has the meaning given by section 21(1) of that Act.

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### 135 Charity

- (1) This section applies to a non-profit registered provider which is a registered charity.
- (2) The charity shall—
  - (a) keep proper accounting records of its transactions and its assets and liabilities in relation to its housing activities, and
  - (b) maintain a satisfactory system of control of those records, its cash holdings and its receipts and remittances in relation to those activities.
- (3) For each period of account the charity shall prepare—
  - (a) a revenue account giving a true and fair view of the charity's income and expenditure during the period, so far as relating to its housing activities, and
  - (b) a balance sheet giving a true and fair view of the state of affairs of the charity as at the end of the period.
- (4) The revenue account and balance sheet must be signed by at least two directors or trustees.
- (5) “Period of account” means—
  - (a) a period of 12 months, or
  - (b) such other period not less than 6 months nor more than 18 as the charity may, with the consent of the regulator, determine.
- (6) This section does not affect any obligation under sections 41 to 45 of the Charities Act 1993 (c. 10) (charity accounts).

VALID FROM 01/04/2010

### 136 Charity: audit

- (1) This section applies in relation to the accounts of a charity under section 135(3).
- (2) If Condition 1 or 2 is met, the charity shall cause a qualified person to audit the accounts and report on them in accordance with section 137.
- (3) If neither Condition is met, the charity shall cause a qualified person (“the reporting accountant”) to report on the accounts in accordance with section 138.
- (4) Condition 1 is met if the accounts relate to a period during which the charity's gross income arising in connection with its housing activities was greater than the sum specified in section 43(1)(a) of the Charities Act 1993.
- (5) Condition 2 is met if—
  - (a) the accounts relate to a period during which the charity's gross income arising in connection with its housing activities was greater than the accounts threshold as defined by section 43(1) of the Charities Act 1993, and

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- (b) at the end of the period the aggregate value of its assets (before deduction of liabilities) in respect of its housing activities was greater than the sum specified in section 43(1)(b).
- (6) “Gross income” has the same meaning as in section 43 of the Charities Act 1993 (c. 10).
- (7) “Qualified person” means a person professionally qualified as an accountant.

VALID FROM 01/04/2010

### 137 Charity: auditor's report

- (1) An auditor appointed for the purposes of section 136(2) or 139(2) in respect of a charity's accounts shall make a report to the charity in accordance with this section.
- (2) The report must state—
  - (a) whether the revenue account gives a true and fair view of the charity's income and expenditure, so far as relating to its housing activities, and
  - (b) whether the balance sheet gives a true and fair view of the state of affairs of the charity as at the end of the period to which the accounts relate.
- (3) The report must give the name of the auditor and be signed.
- (4) The auditor shall, in preparing the report, carry out such investigations as are necessary to form an opinion as to—
  - (a) whether the charity has complied with section 135(2) during the period to which the accounts relate, and
  - (b) whether the accounts are in accordance with accounting records kept under section 135(2)(a).
- (5) If the auditor thinks that the charity has not complied section 135(2) or that the accounts are not in accordance with its accounting records, that must be stated in the report.
- (6) If the auditor fails to obtain all the information and explanations which the auditor thinks necessary for the purposes of the audit, that must be stated in the report.

VALID FROM 01/04/2010

### 138 Charity: accountant's report

- (1) A reporting accountant appointed for the purposes of section 136(3) in respect of a charity's accounts shall make a report to the charity in accordance with this section.
- (2) The report must state whether the accounts are in accordance with accounting records kept under section 135(2)(a).
- (3) On the basis of the information in the accounting records the report must also state whether—
  - (a) the accounts comply with the requirements of the Charities Act 1993;

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(b) section 136(3) applied in respect of the accounts.

(4) The report must give the name of the reporting accountant and be signed.

(5) If the reporting accountant fails to obtain all the information and explanations which the reporting accountant thinks necessary for the purposes of preparing the report, that must be stated in the report.

VALID FROM 01/04/2010

### **139 Charity: extraordinary audit**

(1) This section applies where, in accordance with section 136(3), a charity appoints a reporting accountant to prepare a report in respect of any accounts.

(2) The regulator may require the charity to—

- (a) cause a qualified person to audit the accounts and prepare a report on them in accordance with section 137, and
- (b) send a copy of the report to the regulator by a specified date.

(3) A requirement under subsection (2) may be imposed only during the period of account following the period to which the accounts relate.

(4) In this section—

“period of account” has the meaning given by section 135(5), and  
“qualified person” has the meaning given by section 136(7).

VALID FROM 01/04/2010

### **140 Charity: auditor's powers**

(1) This section applies to a person who is appointed by a charity for the purposes of section 136(2) or (3) or 139(2).

(2) The charity must grant the person access to its documents, if or in so far as they relate to its housing activities.

(3) An officer of the charity must provide such information or explanations as the person thinks necessary.

VALID FROM 01/04/2010

### **141 Offences**

(1) A registered provider commits an offence if it fails, without reasonable excuse, to comply with—

- (a) a direction under section 127,
- (b) a provision listed in subsection (2), or



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- (c) a requirement imposed under a provision listed in subsection (3).
- (2) The provisions referred to in subsection (1)(b) are—
- (a) section 128;
  - (b) section 129;
  - (c) section 135;
  - (d) section 136.
- (3) The provisions referred to in subsection (1)(c) are—
- (a) section 133;
  - (b) section 134;
  - (c) section 139.
- (4) If a registered provider fails to comply with a direction, provision or requirement mentioned in subsection (1) every officer of the registered provider is guilty of an offence.
- (5) It is a defence for an officer to show that the officer did everything that could reasonably have been expected to ensure compliance by the registered provider.
- (6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) Proceedings for an offence may be brought only by or with the consent of—
- (a) the regulator, or
  - (b) the Director of Public Prosecutions.

VALID FROM 01/04/2010

#### **142 High Court**

- (1) If a registered provider fails to comply with a direction, provision or requirement mentioned in section 141(1), the High Court may on the application of the regulator make an order for the purpose of remedying the failure.
- (2) An order may include provision about costs.

VALID FROM 01/04/2010

#### **143 Disclosure**

- (1) This section applies to information that a person has received while acting—
- (a) as auditor of a registered provider, or
  - (b) as a reporting accountant in relation to a registered provider.
- (2) The person may disclose the information to the regulator for a purpose connected with the regulator's functions—
- (a) despite any duty of confidentiality, and
  - (b) whether or not the regulator requests the information.

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- (3) The reference to disclosing information includes expressing an opinion on it.
- (4) “Reporting accountant” means a person who is appointed to prepare a report which, by virtue of any enactment, has to be prepared in respect of accounts that are not subject to audit.

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