



Housing and Regeneration Act 2008

2008 CHAPTER 17

PART 2

REGULATION OF SOCIAL HOUSING

CHAPTER 6

REGULATORY POWERS

Monitoring

VALID FROM 01/04/2010

199 **Survey**

- (1) This section applies where the regulator suspects that a registered provider may be failing to maintain premises in accordance with standards under section 193.
- (2) The regulator may arrange for a survey of the condition of the premises by an authorised person.
- (3) In subsection (2) “authorised person” means a member of the regulator's staff, or another person, authorised in writing by the regulator for the purposes of this section.
- (4) An authorised person may enter the premises at any reasonable time and carry out the survey.
- (5) Before carrying out the survey an authorised person must give the registered provider at least 28 days' notice.
- (6) A registered provider who receives notice of a survey must give each occupier of the premises at least 7 days' notice.

Status: Point in time view as at 01/06/2009. This version of this cross heading contains provisions that are not valid for this point in time.

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- (7) After carrying out a survey an authorised person must produce a written report.
- (8) The regulator must give the registered provider a copy of the report.

VALID FROM 01/04/2010

200 Survey: supplemental

- (1) An authorised person carrying out a survey, or seeking to enter premises in order to carry out a survey, must produce a copy of the authorisation on request by an occupier.
- (2) The regulator may require the registered provider to pay some or all of the costs of the survey and report.
- (3) A registered provider who fails without reasonable excuse to comply with section 199(6) commits an offence.
- (4) A registered provider, or an officer of a registered provider, who obstructs an authorised person in exercising a power under section 199 commits an offence.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) Proceedings for an offence under this section 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

201 Inspections

- (1) The regulator may arrange for a person to inspect—
 - (a) a registered provider's performance of its functions in relation to the provision of social housing, or
 - (b) the financial or other affairs of a registered provider.
- (2) The person must not be a member of the regulator's staff.
- (3) If the purpose (or main purpose) of an inspection is to assess a registered provider's performance by reference to standards under section 193 the regulator—
 - (a) shall invite the Audit Commission to carry out the inspection, and
 - (b) may arrange for another person to carry out the inspection only if the Audit Commission declines.
- (4) The regulator may direct a person carrying out an inspection to discontinue it.
- (5) An inspection may be general or specific.

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- (6) The regulator shall reimburse costs incurred by the Audit Commission in carrying out an inspection.
- (7) If the regulator arranges for a person other than the Audit Commission to carry out an inspection the arrangements may include provision about payments.
- (8) In this section and sections 202 and 203 “the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England.

202 Inspections: supplemental

- (1) After carrying out an inspection under section 201 the person carrying out the inspection must produce a written report.
- (2) The regulator—
 - (a) must give the registered provider a copy of the report, and
 - (b) may publish the report and related information.
- (3) The person who carried out the inspection may publish the report and related information (whether or not the regulator has done so).
- (4) The Secretary of State may by order authorise the regulator to charge fees for inspections.
- (5) An inspected registered provider must pay any fee charged.
- (6) Before making an order the Secretary of State shall consult—
 - (a) the regulator,
 - (b) one or more bodies appearing to the Secretary of State to represent the interests of registered providers,
 - (c) the Audit Commission, and
 - (d) such other persons as the Secretary of State thinks appropriate.
- (7) The regulator shall prescribe a scale of fees for inspections, having consulted—
 - (a) the Secretary of State,
 - (b) one or more bodies appearing to the regulator to represent the interests of registered providers, and
 - (c) the Audit Commission.

Commencement Information

- II** S. 202(4)(6)(7) in force at 8.9.2008 for specified purposes by [S.I. 2008/2358](#), [art. 3\(1\)](#)

VALID FROM 01/04/2010

203 Inspector's powers

- (1) An inspector may by notice require a person to provide specified documents or information.

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- (2) The power under subsection (1) may be exercised only in relation to documents and information of a kind in respect of which the regulator can impose a requirement under section 107.
- (3) Sections 107(3) to (7) and 108 apply for the purposes of subsection (1) (with any necessary modifications).
- (4) An inspector may at any reasonable time—
 - (a) enter premises occupied by the registered provider which is being inspected, and
 - (b) inspect, copy or take away documents found there.
- (5) The reference to documents found on premises includes—
 - (a) documents stored on computers or electronic storage devices on the premises, and
 - (b) documents stored elsewhere which can be accessed by computers on the premises.
- (6) The power to inspect documents includes the power to inspect any computer or electronic storage device on which they have been created or stored.
- (7) An inspector may require any person on the premises to provide such facilities or assistance as the inspector reasonably requests.
- (8) For the purposes of subsections (5) and (6) an inspector may require any person having charge of a computer to provide such assistance as the inspector reasonably requests.
- (9) It is an offence for a person without reasonable excuse to obstruct an inspector exercising the powers conferred by subsections (4) to (8).
- (10) A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (11) Proceedings for an offence may be brought only by or with the consent of—
 - (a) the regulator, or
 - (b) the Director of Public Prosecutions.
- (12) In this section “inspector” means—
 - (a) a person authorised in writing by the Audit Commission to exercise the powers under this section for the purpose of an inspection carried out by the Audit Commission under section 201, or
 - (b) a person authorised in writing by the regulator to exercise the powers under this section for the purpose of any other inspection under that section.

VALID FROM 01/04/2010

204 Performance information

- (1) The regulator may require a registered provider—
 - (a) to prepare an annual report assessing the provider's performance by reference to standards under section 193 or 194, and

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- (b) to send the report to the regulator within a specified period.
- (2) A requirement may specify matters to be covered by a report.
- (3) Failure to comply with a requirement without reasonable excuse is an offence.
- (4) A person guilty of an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) 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

205 Publication of performance information

- (1) The regulator shall publish, at least once a year, information about the performance of registered providers.
- (2) In particular, the regulator shall include information likely to be useful to—
 - (a) tenants,
 - (b) potential tenants, and
 - (c) local authorities.

VALID FROM 01/04/2010

206 Inquiry

- (1) If the regulator suspects that the affairs of a registered provider may have been mismanaged, the regulator may hold an inquiry.
- (2) The regulator shall appoint one or more individuals to conduct the inquiry.
- (3) An individual is eligible for appointment only if the individual is independent of the regulator.
- (4) Individuals are independent of the regulator if they and the members of their family—
 - (a) are not members, employees or consultants of the regulator, and
 - (b) have not been members or employees of the regulator within the previous five years.
- (5) “Consultant” means an individual providing services to the regulator otherwise than by virtue of employment with the regulator or an appointment under this section.

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VALID FROM 01/04/2010

207 Inquiry: supplemental

- (1) The individual or individuals conducting an inquiry (“the inquirer”) shall determine its procedure.
- (2) The inquirer may consider the affairs of a profit-making registered provider only so far as relating to social housing.
- (3) The inquirer may consider affairs of a body which at the material time was a subsidiary or associate of the registered provider.
- (4) The inquirer may make interim reports.
- (5) The inquirer shall make a final report on matters specified by the regulator.
- (6) The regulator may arrange for the publication of all or part of an interim or final report.
- (7) A local authority may contribute to the regulator's expenses in connection with an inquiry.

VALID FROM 01/04/2010

208 Inquiry: evidence

- (1) The inquirer may by notice require a person to provide specified documents or information.
- (2) The notice may, in particular, require evidence to be given on oath (and the inquirer may administer oaths for that purpose).
- (3) The power under subsection (1) may be exercised only in relation to documents and information of a kind in respect of which the regulator can impose a requirement under section 107.
- (4) Sections 107(3) to (7) and 108 apply for the purposes of this section (with any necessary modifications).

VALID FROM 01/04/2010

209 Inquiry: charities

- (1) An inquiry may be held in relation to a registered charity only if it has received public assistance.
- (2) An inquiry in relation to a registered charity may only relate to its activities relating to housing.

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- (3) If an inquiry is held in relation to a registered charity the regulator shall notify the Charity Commission.

VALID FROM 01/04/2010

210 Extraordinary audit

- (1) Where an inquiry in respect of a registered provider is being held, or has been held, under section 206, the regulator may require the registered provider to allow its accounts and balance sheet to be audited by a qualified auditor appointed by the regulator.
- (2) “Qualified auditor” means a person eligible for appointment as auditor of the registered provider's ordinary accounts.
- (3) On completion of the audit, the auditor shall report to the regulator about such matters and in such form as the regulator determines.
- (4) The revenue accounts of a registered charity may be audited under this section only insofar as they relate to its housing activities.
- (5) The registered provider shall pay the costs of the audit (including the auditor's remuneration).

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