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STATUTORY INSTRUMENTS

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**2014 No. 899**

**The Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014**

**Power to require information**

4.—(1) An authorised officer may exercise the powers conferred by this regulation for any of the housing fraud investigation purposes (but not for any other purpose).

- (2) An authorised officer who has reasonable grounds for suspecting that a person—
- (a) is a person falling within paragraph (3) below, and
  - (b) has or may have possession of or access to any information about any matter that is relevant to housing fraud investigation purposes,

may, by written notice, require that person to provide all such information described in the notice of which that person has possession, or to which that person has access, and which it is reasonable for the authorised officer to require for the purpose so mentioned.

- (3) The persons who fall within this paragraph are—
- (a) any bank;
  - (b) any person carrying on a business the whole or a significant part of which consists in the provision of credit (whether secured or unsecured) to members of the public;
  - (c) any water undertaker or sewerage undertaker;
  - (d) any person who—
    - (i) is the holder of a licence under section 7 of the Gas Act 1986<sup>(1)</sup> to convey gas through pipes; or,
    - (ii) is the holder of a licence under section 7A of that Act<sup>(2)</sup> to supply gas through pipes;
  - (e) any person who (within the meaning of the Electricity Act 1989<sup>(3)</sup>) distributes or supplies electricity;
  - (f) any person who provides a telecommunications service;
  - (g) any servant or agent of any person mentioned in sub-paragraphs (a) to (f).

(4) Subject to the following provisions of this regulation, the powers conferred by this regulation on an authorised officer to require information from any person by virtue of that person falling within paragraph (3) shall be exercisable for the purpose only of obtaining information relating to a particular person identified (by name or description) by the officer.

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(1) 1986 c.44; section 7 was substituted by section 5 Gas Act 1995 (c.45) and subsection (1) was subsequently amended by section 76 of the Utilities Act 2000 (c.27). Other amendments to section 7 are not relevant to these Regulations.

(2) Section 7A was inserted by section 6(1) of the Gas Act 1995 (c.45). Subsections (1) and (2) were subsequently amended by section 3(2) Utilities Act 2000 (c.27); subsection (2) was further amended by paragraphs 1 and 2 of Schedule 6 to that Act; and subsection (3) was amended by section 149 of the Energy Act 2004 (c.20). Other amendments have been made to section 7A but they are not relevant to these Regulations.

(3) 1989 c.29

(5) An authorised officer shall not, in exercise of those powers, require any information from any person by virtue of that person falling within paragraph (3) unless it appears to that officer that there are reasonable grounds for believing that the person to whom it relates is—

- (a) a person who has committed, is committing or intends to commit an offence listed in section 7(7) of the Prevention of Social Housing Fraud Act 2013; or
- (b) a person who is a member of the family of a person falling within sub-paragraph (a).

(6) The powers conferred by this regulation shall not be exercisable for obtaining from any person providing a telecommunications service any information other than information which (within the meaning of section 21 of the Regulation of Investigatory Powers Act 2000(4)) is communications data but not traffic data.

(7) An authorised person may exercise the powers conferred by this regulation to require, from a person who provides a telecommunications service, information about the identity and postal address of a person identified by the authorised officer solely by reference to a telephone number or electronic address used in connection with the provision of such a service.

(8) The obligation of a person to provide information in accordance with a notice under this regulation shall be discharged only by the provision of that information, at such reasonable time and in such form as may be specified in the notice, to the authorised officer who—

- (a) is identified by or in accordance with the terms of the notice; or
- (b) has been identified, since the giving of the notice, by a further written notice given by the authorised officer who imposed the original requirement or another authorised officer.

(9) The power of an authorised officer under this regulation to require the provision of information shall include a power to require the production and delivery up and (if necessary) creation of any such documents containing the information as may be specified or described in the notice imposing the requirement, or the creation of copies of or extracts from any such documents.

(10) No person shall be required under this regulation to provide—

- (a) any information that tends to incriminate either that person or, in the case of a person who is married or is a civil partner, that person's spouse or civil partner; or
- (b) any information in respect of which a claim to legal professional privilege would be successful in any proceedings;

and for the purposes of this paragraph it is immaterial whether the information is in documentary form or not.

(11) In this regulation—

“bank” means—

- (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000(5) to accept deposits;
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act(6) which has permission under paragraph 15 of that Schedule(7) (as a result of qualifying for authorisation under paragraph 12 of that Schedule(8)) to accept deposits or other repayable funds from the public; or
- (c) a person who does not require permission under that Act to accept deposits in the course of that person's business in the United Kingdom;

(4) 2000 c.23; an amendment has been made to section 21(5) but is not relevant to these Regulations.

(5) 2000 c.8; Part 4A was inserted by section 11(2) Financial Services Act 2012 (c.21).

(6) Sub-paragraph (b) was substituted by paragraph 29 of Schedule 2 to S.I. 2013/3115.

(7) Paragraph 15 was amended by S.I. 2003/2066; 2007/3253; 2012/1906 and 2013/1881.

(8) Sub-paragraph (9) of paragraph 12 was inserted by S.I. 2012/1906. Other amendments made to paragraph 12 are not relevant to these Regulations.

“credit” includes a cash loan or any form of financial accommodation, including the cashing of a cheque;

“family” is to be construed in accordance with section 113 of the Housing Act 1985<sup>(9)</sup>;

“telecommunications service” has the same meaning as in section 2(1) Regulation of Investigatory Powers Act 2000.

(12) The definition of “bank” in paragraph (11) must be read in accordance with—

- (a) section 22 of the Financial Services and Marketing Act 2000<sup>(10)</sup>;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.

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<sup>(9)</sup> 1985 c.68; section 113 was amended by the Civil Partnership Act 2004 (c.33) Schedule 8, paragraph 27.

<sup>(10)</sup> Section 22 and Schedule 2 were amended by section 7 Financial Services Act 2012 (c.21). Those amendments are not relevant to these Regulations.