SCOTTISH STATUTORY INSTRUMENTS

2013 No. 7

HOUSING

The Housing (Scotland) Act 2001 (Assistance to Registered Social Landlords and Other Persons) (Grants) Amendment Regulations 2013

Made - - - -	*15th January 2013*
Laid before the Scottish Parliament	*16th January 2013*
Coming into force - -	*1st March 2013*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 93(2) and 109(1) and (2) of the Housing (Scotland) Act 2001(**a**) and all other powers enabling them to do so.

In accordance with section 93(4) of that Act, the Scottish Ministers have consulted with such bodies representing local authorities and registered social landlords and such other persons as they think fit.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing (Scotland) Act 2001 (Assistance to Registered Social Landlords and Other Persons) (Grants) Amendment Regulations 2013 and come into force on 1st March 2013.

(2) In these Regulations, "the 2004 Regulations" means the Housing (Scotland) Act 2001 (Assistance to Registered Social Landlords and Other Persons) (Grants) Regulations 2004(**b**).

Amendment of the 2004 Regulations

2.—(1) The 2004 Regulations are amended in accordance with this regulation.

(2) In regulation 2 (interpretation and application)—

(a) after the definition of "the Act", insert ""the 2010 Act" means the Housing (Scotland) Act 2010(**c**);";

(b) omit the definition of "GRO for owner occupation";

(c) after the definition of "housing association", insert ""IIF" has the meaning given to it by paragraph 1 of Schedule 5;";

(**a**) 2001 asp 10.
(**b**) S.S.I. 2004/117, which is amended by S.S.I. 2012/38.
(**c**) 2010 asp 17.

(d) after the definition of "project", insert—

""PSR" has the meaning given to it by paragraph 1 of Schedule 2;

"the Regulator" means the Scottish Housing Regulator established under section 1 of the 2010 Act;";

(e) omit the definition of "retail prices index"; and

(f) in the definition of "RSL", for "Housing (Scotland) Act 2010" substitute "2010 Act"(**a**).

(3) In regulation 3 (categories of grant assistance)—

(a) in paragraph (b), for "GRO for owner occupation" substitute "PSR";

(b) delete "and" at the end of paragraph (c); and

(c) after paragraph (d) insert—

"; and

(e) IIF, to which the provisions of Schedule 5 apply.".

(4) In regulation 4 (provisions applying to each category of grant assistance) for "1 to 4" substitute "1 to 5".

(5) In Schedule 1 (provisions relating to HAG)—

(a) in paragraph 1, omit the definition of "performance grading";

(b) for paragraph 4(a) substitute—

"(a) any information about the performance of the grant applicant or its ability to deliver the project contained in—

(i) a performance report published by the Regulator in terms of section 41 of the 2010 Act;

(ii) a report of an inquiry made by the Regulator in terms of section 46 of the 2010 Act;

(iii) a performance improvement plan, prepared by an RSL at the request of the Regulator, in terms of section 55 of the 2010 Act;

(iv) an enforcement notice issued by the Regulator in terms of section 56 of the 2010 Act;

(ab) whether the Regulator has appointed a manager in terms of section 57 (appointment of manager for housing activities), or section 58 (appointment of manager for financial or other affairs), of the 2010 Act;"; and

(c) for paragraph 13 substitute—

"**13.**—(1) Any programme agreement may be terminated by the local authority if—

(a) the grant recipient fails to deliver the programme to the reasonable satisfaction of the local authority;

(b) information of a kind referred to in paragraph 4(a), produced during the term of the agreement, raises concerns about the ability of the grant recipient to complete the programme to the satisfaction of the local authority; or

(c) the Regulator appoints a manager in terms of either of the sections referred to in paragraph 4(ab).

(2) A grant recipient must inform the local authority immediately in the event that any information of a kind specified in paragraph 4(a) is produced, or either of the appointments referred to in paragraph 4(ab) is made, in relation to the grant recipient.".

(6) For Schedule 2 (GRO for owner occupation), substitute the Schedule contained in Schedule 1 to these Regulations.

(**a**) The definition of "RSL" is amended by S.S.1. 2012/38.

(7) After Schedule 4, insert the Schedule contained in Schedule 2 to these Regulations.

Saving provision

3. Where any application for grant under Schedule 2 (GRO for owner occupation) to the 2004 Regulations has been approved before 1st March 2013 nothing in these Regulations affects the continued operation of the 2004 Regulations in relation to that grant, and the 2004 Regulations continue to apply to it as they applied immediately before that date.

Transitional provision

4.—(1) Any application for grant under Schedule 1 (HAG) to the 2004 Regulations made but not yet determined before 1st March 2013 is, on and after that day, to be treated as an application for such a grant made on 1st March 2013.

(2) Any programme agreement under Schedule 1 (HAG) to the 2004 Regulations in existence on 1st March 2013 is, on and after that day, to be treated as if it had been agreed on 1st March 2013.

M J BURGESS
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
15th January 2013

SCHEDULE 1

Regulation 2(6)

"SCHEDULE 2

Regulations 3(b) and 4

PSR

PART 1

INTERPRETATION AND PURPOSE

Interpretation

1. In this Schedule—

"first purchaser" means the purchaser of a unit from a grant recipient;

"PSR" means Partnership Support for Regeneration grant paid by a local authority in respect of a type 1 or 2 project;

"post completion return" means the form submitted by a grant recipient to a local authority after the sale of the last unit in a project;

"project" means the type 1 or type 2 project approved by a local authority for PSR;

"type 1 project" means a project to provide units for owner occupation in areas with a high concentration of rented housing;

"type 2 project" means a project to provide units for owner occupation in established urban areas where there are limitations in the range of available housing relative to demand.

Purpose

2. The purpose of PSR is to assist type 1 and type 2 projects that provide, improve, repair or adapt subjects to produce units for sale for owner occupation.

PART 2

CLASSES OF PERSON

3. The classes of person to whom local authorities may provide assistance by PSR are—

(a) private developers;

(b) housing trusts; and

(c) non registered housing associations.

PART 3

PROCEDURE TO BE FOLLOWED BY A LOCAL AUTHORITY

4. A local authority must ensure that—

(a) each grant applicant submits an application using the form to be specified by that local authority to enable it to undertake an appraisal of the proposed project;

(b) each grant applicant is made aware of any additional information requirements to those on the application form referred to in sub-paragraph (a) above;

(c) it agrees any client group targeted as first purchasers with a grant applicant and that the grant applicant has a marketing strategy to ensure those client groups receive priority when the units are marketed for sale;

(d) each grant applicant provides such information as is necessary to enable the local authority to confirm that the proposed project is compatible with local housing strategies;

(e) each grant applicant provides details of its organisational structure and legal status;

(f) each grant applicant provides such evidence as the local authority may require regarding the grant applicant's financial standing and ability to fund and complete any proposed project; and

(g) it carries out a financial appraisal of each application and that the financial appraisal is validated by a suitably qualified valuer who is registered with the Royal Institution of Chartered Surveyors and independent from the grant provider.

PART 4

TERMS AND CONDITIONS ON WHICH ASSISTANCE IS PROVIDED

5. The terms and conditions on which PSR is provided are—

(a) all units must comply with the requirements of all applicable Building Regulations;

(b) the grant recipient must provide units for owner occupation in accordance with the project and for no other purpose whatsoever;

(c) unless the local authority first consents in writing, the grant recipient must not sell or dispose of the subjects to anyone other than a first purchaser for occupation as their only or principal residence;

(d) a first purchaser must not be an officer, trustee or director of the grant recipient, or an individual with any financial interest in the grant recipient, or a family member of a grant recipient who is a private developer;

(e) the units must have National House-Building Council certification or equivalent certification approved by the local authority;

(f) any client group targeted for the sale of units in accordance with paragraph 4(c) must receive priority right to purchase the units as first purchasers when the units are marketed for sale;

(g) the grant recipient must submit to the local authority progress reports, the return used to record sales of units to first purchasers and a post completion return all when required by that local authority in the forms to be specified by that local authority;

(h) the grant recipient must grant a standard security over the subjects in favour of the local authority in terms satisfactory to that local authority save where that grant recipient has obtained a bank guarantee or performance bond in terms of sub-paragraph (i) or (j);

(i) where the local authority requires that a bank guarantee or performance bond is obtained, and the grant recipient owns the subjects, that grant recipient must obtain a bank guarantee or performance bond in terms satisfactory to the local authority;

(j) where the grant recipient has entered into a licence agreement and the local authority requires that a bank guarantee or performance bond is obtained the conditions that require to be met are—

(i) the grant recipient has entered into a licence agreement in respect of the subjects in terms satisfactory to that local authority; and

(ii) the grant recipient has delivered to that local authority a bank guarantee or performance bond in respect of the project in terms satisfactory to that local authority;

(k) where the local authority requires, the grant recipient must ensure that the first purchaser of any unit must, at that first purchaser's own expense and including any expenses of that local authority, grant a standard security in favour of that local authority for the pro rata amount of PSR apportioned to that unit, which standard security is to provide for repayment of that amount in the event of the first purchaser ceasing to occupy the unit as that first purchaser's only or principal residence within such period from the date of entry by the first purchaser as is specified by the local authority;

(l) no grant will be paid until the grant applicant satisfies the local authority that it has, or is in a position to obtain, control of the development site or property; and

(m) any payment of PSR by the local authority must be expended on the project by the grant recipient no later than 14 days after that payment by that local authority.

Default

6. The breach of any of the terms and conditions detailed in regulation 6 and paragraph 5 constitutes a default.

Effect of default

7. In the event of a default which is in the opinion of a local authority capable of being remedied, it must allow the grant recipient a period in which to remedy the default, said period being determined by that local authority on the basis of what it considers reasonable in the circumstances and that local authority must serve a notice in writing on that grant recipient to that effect.

8. In the event of a default which is in the opinion of the local authority not capable of being remedied or which has not been remedied in terms of paragraph 7—

(a) where no PSR has been paid the local authority must not make a payment; and

(b) where any payment of PSR has been made, the grant recipient must immediately repay to the local authority that payment less any sum attributable to sales of units to first purchasers which have concluded at the date of default.

Recovery of sums based on the actual cashflow

9. Where the grant calculated by the local authority using the actual cashflow following receipt of the post completion return is less than the amount of grant specified in the offer of grant (which is calculated using the approved cashflow), the amount to be paid by the grant recipient to that local authority as set out in the offer of grant is to be paid within 14 days of the local authority advising that a repayment of grant is due."

SCHEDULE 2

Regulation 2(7)

"SCHEDULE 5

Regulations 3(e) and 4

IIF

PART 1

INTERPRETATION AND PURPOSE

Interpretation

1. In this Schedule—

"IIF" means Innovation and Investment Fund grant paid by a local authority to a grant recipient in respect of a project;

"project" means works undertaken by a grant recipient to provide affordable housing by providing, improving, adapting and repairing subjects;

"subsidiary" has the same meaning as in the Companies Act 2006(**a**) or, as the case may be, the Friendly and Industrial and Provident Societies Act 1968(**b**).

Purpose

2. The purpose of IIF is to assist with providing, improving, adapting and repairing affordable housing for social rent, mid market rent or shared equity.

PART 2

CLASSES OF PERSON

3. The classes of person to whom local authorities may provide assistance by IIF are—

(a) RSLs; and

(b) subsidiaries of RSLs.

PART 3

PROCEDURE TO BE FOLLOWED BY A LOCAL AUTHORITY

4. A local authority must ensure that—

(a) each grant applicant submits an application using the form to be specified by that local authority to enable it to undertake an appraisal of the proposed project;

(b) each grant applicant is made aware of any additional information requirements to those on the application form referred to in sub-paragraph (a) above;

(**a**) 2006 c.46.

(**b**) 1968 c.55; the Act will be re-named as the Co-operative and Community Benefit Societies and Credit Unions Act 1968 by section 2 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 (c.7), but this section is not yet in force.

(c) each grant applicant provides such information as is necessary to enable the local authority to confirm that the proposed project is compatible with local housing strategies;

(d) each grant applicant provides details of its organisational structure and legal status; and

(e) each grant applicant provides such evidence as the local authority may require regarding the grant applicant's financial standing and ability to fund and complete any proposed project.

PART 4

TERMS AND CONDITIONS ON WHICH ASSISTANCE IS PROVIDED

5. The terms and conditions on which IIF is provided are—

(a) the grant recipient must provide units for social rent, mid market rent or shared equity in accordance with the project and for no other purpose whatsoever;

(b) all units must be provided to the standards required by the local authority; and

(c) the grant recipient will provide quarterly progress reports to the local authority in the form to be specified by that local authority.

Default

6. The breach of any of the terms and conditions detailed in regulation 6 and paragraph 5 constitutes a default.

Effect of default

7. In the event of a default which is in the opinion of a local authority capable of being remedied, that local authority shall allow the grant recipient a period in which to remedy the default, said period being determined by that local authority on the basis of what it considers reasonable in the circumstances and that local authority shall serve a notice in writing on that grant recipient to that effect.

8. In the event of the grant recipient failing to remedy the default within said period determined by a local authority, the grant recipient shall be bound to repay any grant paid to the satisfaction of the local authority.

9. In the event of a default which is in the opinion of the local authority not capable of being remedied, the local authority shall make no further payment and where any grant has been paid, the grant recipient shall immediately repay that grant to the satisfaction of the local authority."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing (Scotland) Act 2001 (Assistance to Registered Social Landlords and Other Persons) (Grants) Regulations 2004 ("the 2004 Regulations"). The 2004 Regulations provide the mechanics for several grant schemes that are operated by local authorities.

Regulation 2 and Schedule 1 amend the 2004 Regulations to replace provision for GRO for Owner Occupation grants with provision for Partnership Support for Regeneration (PSR) grants. Regulation 3 makes saving provision in respect of GRO for Owner Occupation Grants that have been approved before these Regulations come into force. PSR grant may be made available to private developers, housing trusts and non registered housing associations, to provide flats or houses for owner occupation in areas where they are in short supply.

Regulation 2 and Schedule 2 amend the 2004 Regulations to add provision for Innovation and Investment Fund (IIF) grants. They provide that IIF grant is only available to Registered Social Landlords and their subsidiaries. Its purpose is to assist with providing, improving, adapting and repairing affordable housing.

Regulation 2(5) amends provisions relating to HAG grants, to replace references to "performance grading" with provision that reflects changes made to the oversight of Registered Social Landlords by the Housing (Scotland) Act 2010. Regulation 4 makes transitional provision in this regard.

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