STATUTORY INSTRUMENTS

2017 No. 91

HOUSING, ENGLAND

The Social Housing Rents (Exceptions and Miscellaneous Provisions) (Amendment) Regulations 2017

Made - - - - *1st February 2017*

Laid before Parliament *2nd February 2017*

Coming into force in accordance with regulation 1(2) to (4)

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 24(5) and (6) and 27(1), (3) to (5) and (7) to (12) of, and paragraphs 1(7) and (8) and 5(5) and (6) of Schedule 2 to, the Welfare Reform and Work Act 2016(**a**).

Citation and commencement

1.—(1) These Regulations may be cited as the Social Housing Rents (Exceptions and Miscellaneous Provisions) (Amendment) Regulations 2017.

(2) Subject to paragraphs (3) and (4), these Regulations come into force on 1st March 2017.

(3) Regulations 4 to 7 come into force on 1st April 2017.

(4) Regulation 8 comes into force on 6th April 2017.

Amendments to the Social Housing Rents Regulations

2. The Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016(**b**) are amended as follows.

Amendments to definitions – intermediate rent accommodation, affordable rent housing

3.—(1) In regulation 2 in the definition of "intermediate rent accommodation enabling programme"—

(a) in paragraph (g) after "within the" insert "Shared Ownership and"; and

(b) after paragraph (h) insert—

"(i) Mortgage Rescue Scheme within the Affordable Homes Programme 2011 – 2015,

(j) London Living Rent within the Homes for Londoners: Affordable Homes Programme 2016 – 21,

(k) The London Housing Zones programme;".

(2) In regulation 19(6)—

(a) in sub-paragraph (c) after "The" insert "Shared Ownership and"; and

(**a**) 2016 c. 7.
(**b**) S.I. 2016/390.

(b) after sub-paragraph (m) insert—

"(n) The Homes for Londoners: Affordable Homes Programme 2016 – 21;

(o) The London Housing Zones programme.".

Amendments to regulations 2, 3 and 4 (domestic violence refuge accommodation etc.)

4.—(1) In regulation 2 after the definition for "co-operative housing association" and "fully mutual housing association" insert—

""domestic violence refuge accommodation" means accommodation in a hostel which is used wholly or mainly for the non-permanent accommodation of persons who have been victims of domestic violence and have left their homes as a result of that violence—

(a) which is usually staffed 24 hours a day by persons whose normal duties include providing support to the residents of the hostel, and

(b) to which access by non-residents is controlled,

and for the purpose of this definition—

(i) "hostel" has the meaning given in section 622 of the Housing Act 1985(**a**),

(ii) "domestic violence" means any incident, or pattern of incidents, of controlling, coercive or threatening behaviour, violence or abuse (whether psychological, physical, sexual, financial or emotional) inflicted on or threatened against a person over the age of 16 by an associated person,

(iii) "coercive behaviour" means an act of assault, humiliation or intimidation or other abuse that is used to harm, punish or frighten the victim,

(iv) "controlling behaviour" means an act designed to make a person subordinate or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance or escape or regulating their everyday behaviour,

(v) "associated" has the same meaning as in Part 4 of the Family Law Act 1996 (see section 62 of that Act);".

(2) In regulation 3—

(a) after sub-paragraph (1)(l) insert—

"(m)domestic violence refuge accommodation;

(n) almshouse accommodation;

(o) accommodation provided by a co-operative housing association or a fully mutual housing association;

(p) accommodation provided by a community land trust."; and

(b) for paragraph (2), substitute—

"(2) Supported housing which is not specialised supported housing or domestic violence refuge accommodation is prescribed under section 24(5) of the Act as a case where section 23 of the Act does not apply during the first relevant year.".

(3) In regulation 4—

(a) in paragraph (c) at the end insert "or domestic violence refuge accommodation"; and

(b) after paragraph (l) insert—

"(m)domestic violence refuge accommodation.".

(**a**) 1985 c. 68. There have been amendments to section 622 which are not relevant.

Amendments to regulation 9

5. For regulation 9(1), substitute—

"**9.**—(1) Subject to paragraph (2), where an exception under regulation 3(1)(m) to (p) or 3(2) applies, section 23 of the Act has effect as if—

(a) in subsection (1) for "at least 1% less" there were substituted "no more";

(b) at the end of subsection (1) there were inserted "adjusted by the specified percentage"; and

(c) after subsection (1) there were inserted—

"(1A) The specified percentage is determined by—

(a) finding the percentage change in the consumer prices index over the specified period, and

(b) adding 1% to that percentage.

(1B) In subsection (1A)—

"consumer prices index" means the general index of consumer prices (for all items) published by the Statistics Board or, if that index is not published for any month, any substituted index or index figures published by that Board; and

"specified period" means the period of 12 months up to and including the September which falls before the 31st March immediately preceding the relevant year.".".

Insertion of regulations 11A and 11B

6. After regulation 11 insert—

"**Domestic violence refuge accommodation – modifications of Part 1 of Schedule 2**

11A.—(1) Subject to paragraph (2), where the exception in regulation 4(m)(**a**) applies, Part 1 of Schedule 2 to the Act has effect with the modifications specified by regulation 11B.

(2) This regulation does not apply if an absolute exception applies.

11B. The modifications to the application of Part 1 of Schedule 2 to the Act mentioned in regulation 11A are as follows—

(a) in paragraph 1(4)(a) for "the rate of formula rent" substitute "110% of the rate of formula rent";

(b) in paragraph 1(4)(c) for "making a 1% reduction in the rate" substitute "adjusting the rate by the specified percentage";

(c) in paragraph 1(5)(c) for "making a 1% reduction in the rate" substitute "adjusting the rate by the specified percentage";

(d) after paragraph 1(8) insert—

"(9) The specified percentage is determined by—

(a) finding the percentage change in the consumer prices index over the specified period, and

(b) adding 1% to that percentage.

(10) In sub-paragraph (9)—

(**a**) Sub-paragraph (m) was inserted by regulation 4(2)(a) of the Social Housing Rents (Exceptions and Miscellaneous Provisions) (Amendment) Regulations 2017.

"consumer prices index" means the general index of consumer prices (for all items) published by the Statistics Board or, if that index is not published for any month, any substituted index or index figures published by that Board; and

"specified period" means the period of 12 months up to and including the September which falls before the 31st March immediately preceding the relevant year.";

(e) after paragraph 3(1) insert—

"(1A) If the tenancy begins before the beginning of the first relevant year, the registered provider must secure that the maximum amount of rent payable to the registered provider by the tenant in respect of the first relevant year is the higher of the amounts described in sub-paragraphs (1B) and (1C).

(1B) The amount found by—

(a) determining the rate of the market rent for that social housing when the tenancy began, and

(b) determining the amount that is the sum of—

(i) 80% of the amount that would be payable in respect of the part of the relevant year that preceded the anniversary of the beginning of the tenancy if that rate had applied during that period, and

(ii) 80% of the amount that would be payable in respect of the part of the relevant year beginning with the anniversary of the beginning of the tenancy if that rate had applied during that period adjusted by the specified percentage.

(1C) The amount that would be payable in respect of that relevant year if the tenant were paying rent at the social rent rate.";

(e) in paragraph 3(2) omit "before or";

(f) in paragraph 3(5) omit from "higher of" to the end and substitute "higher of the amounts described in sub-paragraphs (1B) and (1C).";

(g) in paragraph 3(6) for "sub-paragraph (2)" in each place it occurs substitute "sub-paragraph (1A), (2)";

(h) after paragraph 4(8) insert—

"(9) The specified percentage is determined by—

(a) finding the percentage change in the consumer prices index over the specified period, and

(b) adding 1% to that percentage.

(10) In paragraph (9)—

"consumer prices index" means the general index of consumer prices (for all items) published by the Statistics Board or, if that index is not published for any month, any substituted index or index figures published by that Board; and

"specified period" means the period of 12 months up to and including the September which falls before the 31st March immediately preceding the relevant year.".

Amendments to regulation 13

7. In regulation 13—

(a) for paragraphs (a) and (b) substitute—

"(a) in paragraph 1(4)(a) for "the rate of formula rent" substitute "105% of the rate of formula rent";

(b) in paragraph 1(4)(c) for "making a 1% reduction in the rate" substitute "adjusting the rate by the specified percentage";";

(b) omit paragraph (c);

(c) for paragraph (d) substitute—

"(d) in paragraph 1(5)(c) for "making a 1% reduction in the rate" substitute "adjusting the rate by the specified percentage";

(da) after paragraph 1(5) insert—

"(5A) The specified percentage is determined by—

(a) finding the percentage change in the consumer prices index over the specified period, and

(b) adding 1% to that percentage.

(5B) In sub-paragraph (5A)—

"consumer prices index" means the general index of consumer prices (for all items) published by the Statistics Board or, if that index is not published for any month, any substituted index or index figures published by that Board; and

"specified period" means the period of 12 months up to and including the September which falls before the 31st March immediately preceding the relevant year.".";

(d) in paragraph (e)—

(i) for the inserted sub-paragraph (1B)(b)(ii) substitute—

"(ii) 80% of the amount that would be payable in respect of the part of the relevant year beginning with the anniversary of the beginning of the tenancy if that rate had applied during that period adjusted by the specified percentage."; and

(ii) in the inserted sub-paragraph (1C) for "the first" substitute "that"; and

(e) after paragraph (f) insert—

"(g) in paragraph 3(5) omit from "higher of" to the end and substitute "higher of the amounts described in sub-paragraphs (1B) and (1C).";

(h) in paragraph 3(6), for "sub-paragraph (2)" in each place it occurs substitute "sub-paragraph (1A), (2)";

(i) after paragraph 4(8) insert—

"(9) The specified percentage is determined by—

(a) finding the percentage change in the consumer prices index over the specified period, and

(b) adding 1% to that percentage.

(10) In sub-paragraph (9)—

"consumer prices index" means the general index of consumer prices (for all items) published by the Statistics Board or, if that index is not published for any month, any substituted index or index figures published by that Board; and

"specified period" means the period of 12 months up to and including the September which falls before the 31st March immediately preceding the relevant year.".".

Amendments related to housing administration

8.—(1) In regulation 2—

(a) in the definition of "absolute exception" for "4(a), 4(b), and 4(d) to (i)", substitute "3(1)(q), 3(1)(r), 4(1)(a), 4(1)(b), 4(1)(d) to (i), 4(1)(n) and 4(1)(o)";

(b) after the definition of "Guidance on Rents for Social Housing" insert—

""housing administration order" and "housing administrator" have the meaning given in section 95 of the Housing and Planning Act 2016(**a**);".

(2) In regulation 3—

(a) after paragraph (1)(p)(**b**) insert—

"(q) accommodation provided by a private registered provider in relation to which a housing administration order is in force;

(r) accommodation that satisfies the condition prescribed in paragraph (1A).";

(b) after paragraph (1) insert—

"(1A) The condition is that before the accommodation was provided by the registered provider, the interest in the property or the interest in the part that includes the accommodation was sold or otherwise disposed of by a housing administrator (whether or not immediately before that time).".

(3) In regulation 4—

(a) the existing text becomes paragraph (1);

(b) after paragraph (1)(m)(**c**) insert—

"(n) accommodation provided by a private registered provider in relation to which a housing administration order is in force;

(o) accommodation that meets the condition prescribed in paragraph (2).";

(c) after paragraph (1) insert—

"(2) The condition is that before the accommodation was provided by the registered provider, the interest in the property or the interest in the part that includes the accommodation was sold or otherwise disposed of by a housing administrator (whether or not immediately before that time).".

(4) In regulation 5(2)(a) for "4(a)" substitute "4(1)(a)".

(5) In regulation 10(1) for "regulation 4(c)" substitute "regulation 4(1)(c)".

(6) In regulation 11A(1)(**d**) for "regulation 4(m)" substitute "regulation 4(1)(m)".

(7) In regulation 12(1) for "regulation 4(j)" substitute "regulation 4(1)(j)".

Further amendments

9.—(1) In regulation 11, after paragraph (e) insert—

"(f) in paragraph 3(6), for "sub-paragraph (2)" in each place it occurs substitute "sub-paragraph (1A), (2)"."

(2) In paragraph 6 of the Schedule for "paragraph 6" substitute "paragraph 5".

Gavin Barwell
Minister of State
Department for Communities and Local Government

1st February 2017

(**a**) 2016 c. 22.

(**b**) Sub-paragraph (p) was inserted by regulation 4(2) of the Social Housing Rents (Exceptions and Miscellaneous Provisions) (Amendment) Regulations 2017 which comes into force on 1 April 2017 in accordance with regulation 1(3) of those Regulations.

(**c**) Sub-paragraph (m) was inserted by regulation 4(3)(b) of the Social Housing Rents (Exceptions and Miscellaneous Provisions) (Amendment) Regulations 2017 which comes into force on 1 April 2017 in accordance with regulation 1(3) of those Regulations.

(**d**) Regulation 11A was inserted by regulation 6 of the Social Housing Rents (Exceptions and Miscellaneous Provisions) (Amendment) Regulations 2017 which comes into force on 1 April 2017 in accordance with regulation 1(3) of those Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 ("the Principal Regulations") (besides other things) made provision for exceptions from the social rent requirements introduced by section 23 of, and Schedule 2 to, the Welfare Reform and Work Act 2016 ("the Act") (c. 7). Of particular relevance is that the Principal Regulations excepted from the social rent requirements and made provision for the maximum rent that may be charged for almshouse accommodation and accommodation provided by a co-operative housing association, a fully mutual housing association or a community land trust ("almshouses etc") and for supported housing, the effect of which was essentially to defer the effect of the introduction of the social rent requirements of the Act by a year. The Principal Regulations also excepted intermediate rent accommodation the definition of which included accommodation funded by an intermediate rent accommodation enabling programme named in the regulations and defined affordable rent housing.

These Regulations amend the Principal Regulations. Notably they amend certain of the exceptions made by the Principal Regulations and related provision regarding maximum rents for those cases and make provision for exceptions in circumstances where a provider is under housing administration or accommodation has been sold by a housing administrator.

Regulation 3 amends the definitions of "intermediate rent accommodation enabling programme" and "affordable rent housing" by clarifying the name of the 2016 – 2021 affordable homes programme and by adding additional programmes.

Regulation 4(1) adds a definition of "domestic violence refuge accommodation" ("DVRA") – a category of accommodation which is a sub-set of supported housing.

Regulation 4(2) extends the exceptions from section 23 applicable to DVRA and almshouses etc. Those exceptions will now apply for all four relevant years. It also makes consequential amendments to the exception for supported housing.

Regulation 4(3) excepts DVRA as a stand-alone case from Part 1 of Schedule 2 and makes consequential amendments to the exception for supported housing to exclude DVRA.

Regulation 5 amends regulation 9 of the Principal Regulations which makes provision for the maximum rent which may be charged for supported housing (including DVRA) and almshouses etc. by modifying section 23 of the Act. Regulation 9 will now provide that when one of those exceptions applies the maximum rent which a provider may charge a tenant in respect of a relevant year is the rent payable for the preceding 12 months uplifted by CPI + 1% (where CPI is the change in the consumer prices index over the 12 months up to and including the September which falls before the 31st March immediately preceding the relevant year). The effect of the provision regarding maximum rents in the first relevant year is unchanged because for that year CPI + 1% is 0.9%.

Regulation 6 inserts new regulations 11A and 11B in the Principal Regulations. This modifies the effect of Part 1 of Schedule 2 to the Act for DVRA. The effect is to enable the initial rents of such accommodation to be set at a higher rate and for their rents to be uplifted by CPI + 1% in a subsequent relevant year. Similarly the rent of DVRA which is affordable rent housing may be increased by CPI + 1% in a subsequent relevant year. The effect of the alternative provision regarding maximum rents in the first relevant year is unchanged because for that year CPI + 1% is 0.9%.

Regulation 7 amends regulation 13 of the Principal Regulations which modifies the effect of Part 1 of Schedule 2 for almshouses etc. The effect is to enable the initial rents of such accommodation to be set at a higher rate and for their rents to be uplifted by CPI + 1% in a subsequent relevant year. Similarly the rent of alsmhouses etc which are affordable rent housing may be increased by CPI + 1% in a subsequent relevant year. The effect of the provision regarding maximum rents in the first relevant year is unchanged because for that year CPI + 1% is 0.9%.

Regulation 8 makes provision for exceptions to the social rent requirements of the Act to apply to the accommodation of a private registered provider where a housing administration order is in force or accommodation which has in the past been sold or otherwise disposed of by a housing administrator.

Regulation 9(1) clarifies the position under regulation 10 of the Principal Regulations (modifications of Part 1 to Schedule 2 applicable to supported housing) where a tenancy of affordable rent housing comes to an end or the supported housing ceases to apply after part of a relevant year to which the modification to the provisions of the Act contained in inserted paragraph (1A) applies.

Regulation 9(2) corrects a typographic error in paragraph 6 of the Schedule to the Principal Regulations.

A full regulatory impact assessment has not been prepared for this instrument as no impact on business or the private or voluntary sector is foreseen.

© Crown copyright 2017

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

ISBN 978-0-11-115381-9

£6.00

UK201702017 02/2017 19585

http://www.legislation.gov.uk/id/uksi/2017/91