

Reprint
as at 14 April 2015



Housing Restructuring and Tenancy Matters (Community Housing Provider) Regulations 2014 (LI 2014/116)

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 7th day of April 2014

Present:

His Excellency the Governor-General in Council

Pursuant to sections 187 and 190 of the Housing Restructuring and Tenancy Matters Act 1992, His Excellency the Governor-General makes the following regulations,—

- (a) acting on the advice and with the consent of the Executive Council; and
- (b) acting on the recommendation of the Minister of Finance, the Minister of Housing, and the Minister for Social Development given in accordance with section 191(1) of that Act.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

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Regulations

1 Title

These regulations are the Housing Restructuring and Tenancy Matters (Community Housing Provider) Regulations 2014.

2 Commencement

These regulations come into force on 14 April 2014.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Housing Restructuring and Tenancy Matters Act 1992

agency means the social housing agency appointed under section 100 of the Act

authority means the regulatory authority appointed under section 159 of the Act

community housing provider means a housing provider (other than HNZ or the Corporation) that has, as 1 of its objects, the provision of one or both of the following types of housing:

- (a) social rental housing;
- (b) affordable rental housing

performance standards means the performance standards set out in the Schedule

register means the register of community housing providers established under section 172 of the Act.

Application for registration

4 Application for registration

- (1) An application may be made to the authority for registration in *class 1: social landlord* for the purpose of being eligible for income-related rent subsidies.
- (2) The application must be made in electronic form to the authority unless the authority considers it appropriate in the circumstances that the application be made in writing.

Eligibility criteria

5 Eligibility criteria

The eligibility criteria for registration in *class 1: social landlord* are as follows:

- (a) the applicant must be a community housing provider; and
- (b) the applicant must not be—
 - (i) a local authority; or
 - (ii) a council-controlled organisation; or
 - (iii) a subsidiary of a local authority or council-controlled organisation unless the subsidiary is operating at arm's length from the local authority or council-controlled organisation; and
- (c) the applicant's governing body must, after having reviewed the performance standards, support the application for registration; and

- (d) the authority must be satisfied, on reasonable grounds, that the applicant has the capacity to meet the performance standards.

Information required in application for registration

6 Information required in application

- (1) An application for registration must contain the following information:
 - (a) information on the type of organisation that the applicant is; and
 - (b) the organisation's contact details, including business and postal address, and contact details of the applicant's representative for the purposes of the application; and
 - (c) information on the functions of the organisation; and
 - (d) evidence that the organisation's objects include social rental housing or affordable rental housing; and
 - (e) information on any previously submitted declarations to the authority on any related or relevant matter; and
 - (f) information on the organisation's registered charity status (if any).
- (2) The application must also contain—
 - (a) a written declaration from the applicant's governing body that it supports the application; and
 - (b) a written undertaking by the applicant that it will comply with all of the obligations of a registered community housing provider under the Act and these regulations; and
 - (c) a written declaration by the applicant as to whether the applicant or any of its personnel has or is likely to have any material conflict of interest that could affect the applicant's suitability for registration or eligibility for the income-related rent subsidy; and
 - (d) evidence that the applicant has the capacity to meet the performance standards.

Regulation 6(1)(d): replaced, on 14 April 2015, by regulation 4 of the Housing Restructuring and Tenancy Matters (Community Housing Provider) Amendment Regulations 2015 (LI 2015/42).

Performance standards

7 Performance standards that apply to class 1: social landlord and providers with deemed registration

- (1) A community housing provider that has obtained registration in *class 1: social landlord* must, in order to maintain that registration, meet the performance standards.

- (2) A community housing provider that is deemed to be registered under section 173 of the Act must, in order to maintain that registration, meet the performance standards.
- (3) The performance standards apply to the operation of a registered community provider as a whole.

Register

8 Electronic register required

The authority must establish and maintain an electronic register of all registered community housing providers (whether registered under these regulations or deemed to be registered under section 173 of the Act).

9 Prescribed information

For the purpose of section 172(e) of the Act, the register must include the following information for each registered community housing provider:

- (a) the class of registration that the provider has obtained;
- (b) a description of the provider and the scope of its activities, including a description of—
 - (i) the geographic location of the provider; and
 - (ii) the name and job title of each member of the provider's senior management;
- (c) a copy of any notice of the authority's intention to suspend or revoke the provider's registration;
- (d) information on any previous suspension or revocation of registration;
- (e) a copy of any binding instructions under section 181 of the Act;
- (f) details of any appointment made to the governing body under section 180 of the Act;
- (g) if a person has been appointed as a statutory manager, receiver, liquidator, or voluntary administrator in respect of the provider,—
 - (i) the person's name or the name of the firm with which the person is associated; and
 - (ii) the year in which the person was appointed.

10 Information that must be publicly accessible on register

The information prescribed in regulation 9(a) to (f) must be made accessible through the register to the public at all reasonable times.

11 Search criteria

The register may be searched by reference to any 1 or more of the following criteria:

- (a) the name of the community housing provider:
- (b) geographic location:
- (c) registration status.

Complaints

12 Information that must be provided with complaint

A complaint under section 177 of the Act must be accompanied by the following written information:

- (a) the name and contact details of the complainant:
- (b) a brief description of the matter giving rise to the complaint, including relevant dates, places, and times:
- (c) copies of any relevant documentation and other supporting information.

13 Decision whether to proceed with complaint

- (1) The authority must, within 5 working days after receiving a complaint under section 177 of the Act, acknowledge receipt of the complaint in writing to the complainant.
- (2) If the authority accepts the complaint,—
 - (a) the authority must investigate the complaint within 20 working days after the complaint is received; or
 - (b) if the authority considers that the complaint cannot be adequately investigated within that time because of any complex issues involved, the authority must notify the complainant in writing and provide an estimated time frame for the investigation.

14 After complaint investigated

- (1) The authority must, as soon as practicable after investigating a complaint,—
 - (a) notify the affected provider of the outcome of the investigation and, if applicable, request the provider to remedy any failure:
 - (b) notify the complainant of the outcome of the investigation, including a description of any action taken by the authority.
- (2) The authority—
 - (a) must give the provider a reasonable time frame, being not less than 14 days, to remedy any failure; and
 - (b) may require the provider to remedy any failure within a shorter time frame if the authority considers that the failure could result in serious harm to any occupants of any housing for which the provider is responsible.

Income-related rent subsidy

15 Date that income-related rent subsidy becomes available

The income-related rent subsidy becomes available on and from 14 April 2014 to community housing providers that—

- (a) have obtained registration in *class 1: social landlord* or are deemed to be registered under section 173 of the Act; and
- (b) have entered into a contract with the agency to receive the income-related subsidy.

Request for revocation of registration

16 Request for revocation of registration under section 170(2) of Act

When requesting revocation of its registration under section 170(2) of the Act, a community housing provider must provide the authority with evidence that appropriate arrangements have been made to ensure that the provider's social housing tenants will not as a result of revocation be disadvantaged with respect to—

- (a) geographic location;
- (b) type of housing;
- (c) amenities in housing;
- (d) eligibility for or access to income-related rent.

Appeals

17 Appeals to be made to District Court

- (1) An appeal by a community housing provider under section 184 of the Act must be made to a District Court.
- (2) The District Courts Act 1947 and the rules of the District Courts apply, with any necessary modification that the court thinks fit, to an appeal under section 184 of the Act.

Schedule

Performance standards for registered community housing providers

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1 Governance

- (1) For the purpose of ensuring that it is well-governed at all times, the registered community housing provider (the **provider**)—
 - (a) has an identified group of suitably skilled people responsible for its governance; and

- (b) has documented systems and processes that include—
 - (i) strategic, operational, and financial planning documents; and
 - (ii) quality and risk management plans and mitigation strategies; and
 - (iii) effective, transparent, and accountable arrangements and controls for decision making.
- (2) The provider ensures that the governing body—
 - (a) has access to relevant external expertise as required; and
 - (b) complies with legislative, regulatory, and legal requirements; and
 - (c) complies with relevant government policies.
- (3) The governing body understands the financial status of the provider at all times.
- (4) The provider—
 - (a) acts with integrity in its business activities and maintains high standards of probity relating to its business activities; and
 - (b) establishes and administers a code of conduct for its employees and members of the governing body; and
 - (c) establishes and administers a system of employment and appointment checks; and
 - (d) establishes and administers a system for preventing, detecting, reporting, and responding to instances of fraud, corruption, and other criminal conduct by employees and members of the governing body; and
 - (e) identifies and abides by relevant accounting and auditing practices; and
 - (f) does not bring the reputation of the community housing sector into disrepute.

2 Management

The provider is managed in a safe, efficient, and effective manner at all times, and for that purpose the provider has documented systems and processes to ensure that—

- (a) appropriate accountability measures in respect of decision making, probity, and service delivery are in place and monitored; and
- (b) the outcomes for tenants are appropriate, measurable, and monitored in relation to the following:
 - (i) affordability;
 - (ii) access to information;
 - (iii) access to services (including a complaints process); and
- (c) the provider can demonstrate that Crown funding for the purchase of tenancy services is used for tenancy services; and

- (d) there is an appropriate management structure, and systems, policies, and procedures are in place to ensure that—
 - (i) the operational needs of its business can be met; and
 - (ii) intended outcomes of its business can be achieved.

3 Financial viability

The provider demonstrates financial viability and solvency at all times, and for that purpose the provider has documented systems and processes to ensure that—

- (a) there is a viable capital structure; and
- (b) appropriate financial performance is maintained; and
- (c) financial risk exposure is managed.

4 Tenancy management

The provider has documented systems and processes to ensure that—

- (a) the provider complies with all relevant legislative requirements (including the Residential Tenancies Act 1986); and
- (b) the tenancy management process is transparent and responsive; and
- (c) confidentiality of all tenancy information is maintained.

5 Property and asset management

The provider manages its community housing assets in a manner that ensures properties are suitable, and for that purpose the provider has documented systems and processes to ensure that—

- (a) changing housing needs are determined and plans for asset acquisitions, disposals, and reconfigurations to respond to those needs are in place; and
- (b) relevant property condition standards are set, measured, and met on an ongoing basis; and
- (c) cyclical and life-cycle maintenance to maintain property conditions is planned and undertaken in a timely manner; and
- (d) the provider complies with all relevant legislative requirements (including, but not limited to, the Building Act 2004, the Building Regulations 1992, and the Residential Tenancies Act 1986).

Michael Webster,
Clerk of the Executive Council.

Reprints notes**1 *General***

This is a reprint of the Housing Restructuring and Tenancy Matters (Community Housing Provider) Regulations 2014 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Housing Restructuring and Tenancy Matters (Community Housing Provider) Amendment Regulations 2015 (LI 2015/42)