



# Housing Restructuring and Tenancy Matters (Community Housing Provider) Regulations 2014

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.

## Contents

		Page
1	Title	2
2	Commencement	3
3	Interpretation	3

**Housing Restructuring and Tenancy  
Matters (Community Housing Provider)  
Regulations 2014**

r 1

2014/116

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	<i>Application for registration</i>	
4	Application for registration	3
	<i>Eligibility criteria</i>	
5	Eligibility criteria	3
	<i>Information required in application for registration</i>	
6	Information required in application	4
	<i>Performance standards</i>	
7	Performance standards that apply to <i>class 1: social landlord</i> and providers with deemed registration	5
	<i>Register</i>	
8	Electronic register required	5
9	Prescribed information	5
10	Information that must be publicly accessible on register	6
11	Search criteria	6
	<i>Complaints</i>	
12	Information that must be provided with complaint	6
13	Decision whether to proceed with complaint	7
14	After complaint investigated	7
	<i>Income-related rent subsidy</i>	
15	Date that income-related rent subsidy becomes available	7
	<i>Request for revocation of registration</i>	
16	Request for revocation of registration under section 170(2) of Act	8
	<i>Appeals</i>	
17	Appeals to be made to District Court	8
	<b>Schedule</b>	8
	<b>Performance standards for registered community housing providers</b>	

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## Regulations

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

2

## 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 from the organisation's empowering document that the organisation's objects include social rental housing or affordable rental housing (for example, as set out in the organisation's constitution or trust deed); 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.

#### *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.

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**Schedule**

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**Performance standards for registered  
community housing providers**

**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.

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### **Explanatory note**

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 14 April 2014, provide for the registration and regulation of community housing providers under the Housing Restructuring and Tenancy Matters Act 1992.

A community housing provider means a housing provider (other than Housing New Zealand Corporation) that has as one of its objects the provision of social rental housing or affordable rental housing. The registration of community housing providers is carried out by the Ministry of Business, Innovation, and Employment (the **regulatory authority**).

Applications may be made to the regulatory authority for registration in *class 1: social landlord* for the purpose of being eligible for income-related rent subsidies. A community housing provider seeking registration must satisfy the eligibility criteria set out in *regulation 5*, and once registered, the provider must maintain the performance standards set out in the *Schedule*.

These regulations, among other things,—

- specify how an application for registration is to be made and the information that the applicant must provide:

**Housing Restructuring and Tenancy  
Matters (Community Housing Provider)  
Regulations 2014**

Explanatory note

2014/116

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- require the regulatory authority to establish and maintain an electronic register of registered community housing providers:
- prescribe information that must be included in the register and information that must be publicly accessible through the register:
- provide for matters that must accompany a request by a community housing provider for revocation of its registration:
- state that the income-related rent subsidy will become available on and from 14 April 2014 to specified types of community housing providers:
- provide that appeals against certain decisions of the regulatory authority may be made to a District Court.

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Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 10 April 2014.

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

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