

NOTICE 862 OF 2010**DEPARTMENT OF HUMAN SETTLEMENTS****SOCIAL HOUSING ACT, 2008 (ACT NO 16 OF 2008), SOCIAL HOUSING
REGULATIONS, 2010**

The Department of Human Settlements hereby publishes the draft Social Housing Regulations, 2010, for public comment.

Interested persons and institutions are invited to submit written comments on the draft Regulations to the Director-General, Department of Human Settlements, on or before 30 September 2010.

Comments should be submitted for the attention of –

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DRAFT

GOVERNMENT NOTICES

DEPARTMENT OF HUMAN SETTLEMENTS

No. R. ____

_____ 2010

SOCIAL HOUSING ACT, 2008

SOCIAL HOUSING REGULATIONS

I, Tokyo Mosima Gabriel Sexwale, Minister for Human Settlements hereby under section 19 of the Social Housing Act, 2008 (Act No. 16 of 2008), and after consultation with Parliament, make the regulations in the Schedule.

Tokyo Mosima Gabriel Sexwale

Minister of Human Settlements

SCHEDULE ARRANGEMENT OF SOCIAL HOUSING REGULATIONS

Chapter 1 Interpretation and Definitions

1. Definitions

Chapter 2 Applications, qualifying criteria, accreditation

2. Application for accreditation
3. Qualifying criteria for accreditation of social housing institutions
4. Provisionally accredited social housing institutions at commencement of Act
5. Register of Social Housing Institutions
6. Reporting requirements
7. Withdrawal of accreditation
8. Accredited service providers

Chapter 3 Regulatory functions

9. Compliance declaration
10. Forensic investigations audit report
11. Internal review
12. Transfer of social housing stock
13. Disposal of social housing stock funded with public fund
14. Monitoring performance of grants

Chapter 4 Approvals

15. Permission to change documents
16. Annual approvals of business plan and operational plan

Chapter 5 Code of Conduct

17. Status of Code of Conduct
18. Good governance requirements
19. Financial sustainability requirements
20. Service delivery requirements

Chapter 6

Investment criteria

- 21. Investment Criteria
- 22. Housing Design
- 23. Marketing Arrangement Criteria
- 24. Rentals and Tenure Costs
- 25. Financial Viability
- 26. Governance and Management Criteria
- 27. Management Capacity
- 28. Financial Administration
- 29. Building/Property Maintenance
- 30. Approval of service providers
- 31. Monitoring performance of grants

Chapter 7

Entry, enquiry and seizure of documents

- 32. Powers and duties of Regulatory Authority in respect of entry, enquiry or seizure of documents

Chapter 8

Agreements

- 33. Agreements with other delivery agents
- 34. Agreements with provincial governments
- 35. Agreements with National Housing Finance Corporation

Chapter 9

General

- 36. Offences and penalties
- 37. Short title and commencement

Annexure: Prescribed Application Form for Accreditation

Chapter 1

Definitions

Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context otherwise indicates—

“compliance declaration” means a compliance declaration referred to in regulation 9(1);

“institutional subsidy” means an institutional or any other capital subsidy or grant under a national housing programme, which is approved, allocated and administered by a provincial government or by a municipality which is accredited by the MEC of the province concerned in terms of section 10(2) of the Housing Act, 1997, to administer a social housing programme, in the manner contemplated in the Housing Act, 1997;

“register” means the register of social housing institutions contemplated in section 11(3)(c) of the Act;

“rules” means rules prescribed by the Regulatory Authority by notice in the *Government Gazette* under section 11(4)(a) or (b) of the Act;

“the Act” means the Social Housing Act, 2008 (Act No. 16 of 2008).

Chapter 2

Applications, qualifying criteria, accreditation

Application for accreditation

2. (1) An institution intending to carry on the business of social housing must apply in writing on the form that corresponds substantially with the Annexure to the Regulatory Authority for accreditation as a social housing institution.

(2) The application contemplated in subregulation (1) must be accompanied by—

- (a) the institution's founding documents;
- (b) the institution's business plan;
- (c) the institution's operational policies; and
- (d) such information and documentation as may be prescribed by rule by the Regulatory Authority in order to assess the applicant's—
 - (i) arrangements for good governance;
 - (ii) financial sustainability; and
 - (iii) property-management capacity.

(3) Applications must be submitted to the Regulatory Authority in the following manner:

- (a) Post: Social Housing Foundation
Postnet Suite 240
Houghton
2041;
- (b) facsimile: (011) 642 2808; or

(c) electronic mail: resource@shf.org.za .

(4) The Regulatory Authority may, when accrediting any applicant as a social housing institution, stipulate such reasonable conditions as may be appropriate in the circumstances in order to ensure compliance with the Act, these regulations and the rules.

(5) The Regulatory Authority may, for purposes of an application for accreditation and subject to the provisions of regulation 18, make such enquiries and conduct such investigations as may be necessary to evaluate an application.

(6) The Regulatory Authority must, within 90 days of receiving an application for accreditation—

(a) approve an application by an institution for accreditation and accredit the applicant as a social housing institution; or

(b) reject the application.

(7) The Regulatory Authority must notify an applicant of its decision in writing and, where it has declined an application or has imposed any condition contemplated in subregulation (4), the Regulatory Authority must, without detracting from the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), notify the applicant in writing of the reasons for such decision.

Qualifying criteria for accreditation of social housing institutions

3. (1) The qualifying criteria that must be applied by the Regulatory Authority for purposes of accreditation as a social housing institution are—

- (a) appropriate legal form, as contemplated in subregulation (2);
- (b) not-for profit, as contemplated in subregulation (3);
- (c) good governance, as contemplated in subregulation (4);
- (d) financial sustainability; as contemplated in subregulation (5); and
- (e) efficient service delivery; as contemplated in subregulation (6).

(2) In order to comply with the criteria of appropriate legal form, the applicant must be—

- (a) a company limited by shares, whether public or private;
- (b) a company limited by guarantee, whether or not incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973);
- (c) a co-operative registered as a primary housing co-operative under the Co-operatives Act, 2005 (Act No. 14 of 2005);
- (d) a share block company as defined in the Share Blocks Control Act, 1980 (Act No. 59 of 1980);
- (e) a communal property association registered as such under section 8 of the Communal Property Associations Act, 1996 (Act No. 28 of 1996);

- (f) a voluntary association which in terms of its constitution is a juristic person with legal personality distinct from its members;
 - (g) a trust; or
 - (h) with effect from the commencement of the Companies Act, 2008 (Act No. 71 of 2008), a non-profit company as contemplated in that Act.
- (3) In order to comply with the criteria of not-for profit, the founding documents of an applicant institution must provide that—
 - (a) the institution's income and assets, however derived, must be applied solely to advance its main object, and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus, or in any other manner, to (as may be applicable to the form of institution concerned) any founder, member, shareholder, director, trustee, beneficiary of or holder of any interest direct or indirect in the institution, excepting only payment in good faith of reasonable remuneration for goods or services actually delivered or rendered to or at the direction of the institution; and
 - (b) on its winding-up, deregistration or dissolution of the institution the assets of the institution remaining after the satisfaction of all its liabilities shall be given or transferred to some other social housing institution or institutions, to be determined by the members, shareholders or trustees of the association at or before the time of its dissolution or, failing such determination, by the High court.
- (4) In order to comply with the criteria of good governance, the applicant must have the following arrangements in place:
 - (a) As its main object the provision of rental or co-operative housing

options for low- to medium-income households (excluding immediate individual ownership and a contract as defined under the Alienation of Land Act, 1981 (Act No. 68 of 1981)), on an affordable basis, ensuring quality and maximum benefits for residents, and the management of its housing stock over the long term;

- (b) the applicant must be independent from other entities, except to the extent that it may be controlled as a subsidiary by another social housing institution;
 - (c) adequate operational policies;
 - (d) committees with clear mandates and delegated authority, where appropriate;
 - (e) a business strategy with objectives supporting its main object of providing social housing; and
 - (f) an adequate system of risk management to identify and mitigate key risks.
- (5) In order to comply with the criteria of financial sustainability, the applicant must have the following arrangements in place:
- (a) A comprehensive and accurate financial business plan, which shall include a plan for the acquisition, development, conversion or upgrading for social housing of a building or buildings for which the applicant holds the necessary rights;
 - (b) access to financial resources sufficient to implement the financial business plan, including adequate provision for maintenance and refurbishment of buildings, and particulars of applications for institutional subsidies and of any approvals thereof by the provincial

government;

(c) a sound and workable financial control policy; and

(d) effective accounting, financial management and management-accounting systems and procedures.

(6) In order to comply with the criteria of efficient service delivery, the applicant must have the following arrangements in place:

(a) Transparent and fair standards for letting properties that ensure the continued sustainability of the institution and promote the sustainability of tenancies;

(b) a termination of lease policy;

(c) sound and workable policies and procedures for administering and managing properties, tenancies and leases, including rental collection and effective means of dealing with rental arrears, dispute resolution and the termination of leases; and

(d) management arrangements and systems and staffing resources that are adequate to administer and manage properties, tenancies and leases.

Provisionally accredited social housing institutions at commencement of Act

4. (1) The Regulatory Authority may request a provisionally accredited social housing institution contemplated in section 13(1) of the Act to submit to the Regulatory Authority any such information and documentation regarding housing developments developed or administered by the institution as may be prescribed by rules of the Regulatory Authority.

(2) Provisional accreditation shall lapse on 30 August 2010.

(3) A provisionally accredited social housing institution contemplated in subregulation (1), must apply in the manner and format referred to in regulation 2 for accreditation as a social housing institution.

Register of social housing institutions

5. (1) The register contemplated in section 11(3)(c) of the Act must in respect of every social housing institution contain—

- (a) the name and form of the social housing institution;
- (b) the status of accreditation;
- (c) the date of accreditation and of any change in accreditation status;
- (d) any grants approved and particulars thereof;
- (e) the names and contact details of the directors or trustees and key managers of the institution;
- (f) all social housing projects undertaken and completed;
- (g) all social housing stock under management;
- (h) particulars of any instruction, directive or notice issued to the institution;
- (i) any report prepared by the Regulatory Authority or by a forensic auditor relating to maladministration or alleged maladministration by the institution, and any order of the High Court relating to administration of the institution by the Regulatory Authority, as contemplated in section

12(8), (9) and (10) of the Act; and

- (j) any withdrawal of accreditation and the date and reasons therefore.

(2) The fee for an inspection of the register and for a copy of an extract from the register shall be R50, 00.

(3) The Regulatory Authority must, once a social housing institution has been registered, issue to that social housing institution a certificate of accreditation.

Reporting Requirements

6. Accredited social housing institutions must on an annual basis and no later than 31 March of each year, report to the Regulatory Authority where the following information must be provided:

- (a) Company information including legal status, shareholding and governance arrangements;
- (b) current staffing and staff costs and selected demographic information;
- (c) current own rental portfolio including location, number of units and rentals;
- (d) rental stock managed on behalf of others including location, number of units and rentals;
- (e) stock acquisition, stock disposal and new developments in the previous year including location, number of units and rentals;
- (f) management accounts;

- (g) latest audited and board approved annual financial statements;
- (h) SARS tax certificate of good standing (to be valid for at least six months from date of submission); and
- (i) performance indicators as requested by the Regulatory Authority.

Withdrawal of accreditation

7. (1) Where the Regulatory Authority has withdrawn the accreditation of a social housing institution in terms of the Act, the Regulatory Authority must remove from the register of social housing institutions the name of any social housing institution whose accreditation has been withdrawn.

(2) Upon withdrawal of accreditation of a social housing institution, the Regulatory Authority must request and ensure that the social housing institution returns any certificate confirming its accreditation to the Regulatory Authority.

Accredit service providers

8. (1) The Regulatory Authority must accredit service providers who provide services to social housing institutions aimed at organisational development, building of capacity and institutional support in respect of which grants may be made directly to such service providers pursuant to section 11(3)(a) of the Act.

(2) The Regulatory Authority must publish updated lists of accredited service providers in the *Government Gazette* from time to time, and may publish different lists in respect of different categories of accredited service providers.

Chapter 3

Regulatory functions

Compliance declaration

9. (1) The Regulatory Authority must, where the social housing institution has taken the required remedial action pursuant to a notice contemplated in section 12(1)(b) and (c) of the Act, issue to that social housing institution a compliance declaration confirming that such remedial action has been taken to the satisfaction of the Regulatory Authority.

(2) A social housing institution, to which a notice has been issued in terms of section 12(1)(b) and (c) of the Act and which is of the opinion that it has taken the required remedial action pursuant to the said notice, may request the Regulatory Authority to issue a compliance declaration to the social housing institution.

Forensic investigations and audit reports

10. (1) The Regulatory Authority must provide a copy of a forensic audit report contemplated in section 12(3) of the Act to the social housing institution concerned.

(2) The Regulatory Authority may, if the forensic audit report referred to in subregulation (1) finds maladministration, recover the costs of the forensic investigation from the social housing institution concerned.

Internal review

11. (1) A social housing institution or any person directly affected by a decision of the Regulatory Authority may, in writing and within 60 days of such a decision, request the Regulatory Authority to review the decision.

(2) The request contemplated in subregulation (1) must—

- (a) detail the decision against which the internal review is lodged;
 - (b) state the grounds upon which the internal review is based;
 - (c) include a proposal on an appropriate solution which will adequately address the matter;
 - (d) contain the full particulars of the aggrieved social housing institution or person, which particulars must include—
 - (i) full registered name of social housing institution or person, as the case may be;
 - (ii) identity number, in the case of a person; and
 - (iii) postal address, facsimile and telephone numbers of the aggrieved social housing institution or person, as the case may be; and
 - (e) contain any other information pertinent to the matter.
- (3) A request contemplated in subregulation (1) must be submitted to the Regulatory Authority in the following manner:

- (a) Post: Social Housing Foundation
Postnet Suite 240
Private Bag x 30500
Houghton
2041; or
- (b) Facsimile: (011) 642-6200; or .
- (c) Electronic mail: resource@shf.org.za

(4) The Regulatory Authority must, immediately upon receipt of a request, refer the matter to the Council.

(5) The Regulatory Authority must acknowledge receipt of the request within 7 days of receiving the request.

(6) The Council must consider the matter and may summarily deal with the matter or, where appropriate, call for documentation or oral presentations in order to consider the matter.

(7) The Council must, within 90 days of receiving the request from the Regulatory Authority, confirm or substitute the decision of the Regulatory Authority, and must ensure that the necessary notice, instructions and appropriate reasons be given to the Regulatory Authority and the social housing institution concerned.

Transfer of social housing stock

12. (1) The Regulatory Authority must, where housing stock or rights have been transferred in accordance with section 12(9)(c) of the Act, credit the social housing institution to whom the housing stock or rights have been transferred with the value of the housing stock or rights as determined by an independent accountant and public auditor contemplated in the Public Accountant's and Auditor's Act, 1991 (Act No. 80 of 1991), appointed by the Regulatory Authority, having regard to the price that another social housing institution would pay for the housing stock or rights.

(2) When a social housing institution wants to transfer social housing stock to another social housing institution such social housing institution must apply in writing to the Regulatory Authority for its approval before transferring social housing to another social housing institution.

(3) The transfer of social housing by a social housing institution without approval of the Regulatory Authority is void.

Disposal of social housing stock funded with public funds

13. (1) A social housing institution must seek permission from the Regulatory Authority before—

- (a) disposing of social housing stock into the open market where it might cease to be social housing for low to medium income households as provided in the Act; and
- (b) disposing of social housing stock funded with public funds.

(2) The Regulatory Authority may not approve a disposal of social housing stock funded with public funds in the open market as contemplated in subregulation (1), unless after consultation with the municipality and other social housing institutions in the area concerned it is satisfied on reasonable grounds that there is sufficient social housing in the area and no need to retain the relevant housing stock as social housing.

Monitoring performance of grants

14. The Regulatory Authority must monitor the impact and performance of institutional investment grants and capital grants disbursed, against benchmarks in its social housing investment plan for the year concerned, for the purpose of its annual report to the Minister in respect of the social housing investment plan in terms of section 11(2)(b) of the Act.

Chapter 4

Approvals

Permission to change documents

15. (1) A social housing institution must request permission from the Regulatory Authority before implementing—

(a) any change to its constituting documents, standard lease agreement or standard house rules; and

(b) any material change to its business plan or operational plan.

(2) A request contemplated in subregulation (1) must be accompanied by a copy of the proposed change.

Annual approval of business plan and operational plan

16. (1) A social housing institution must on an annual basis and within 30 days of the start of its financial year submit to the Regulatory Authority for approval its business and operational plan for the ensuing year.

(2) The Regulatory Authority may approve or reject a business and operational plan contemplated in subregulation (1) or engage with the social housing institution regarding an acceptable business and operational plan.

Chapter 5

Code of conduct

Status of Code of Conduct

17. (1) The Code of Conduct sets out the requirements or standards in respect of financial sustainability, good governance, excellence of service delivery against which the performance of social housing institutions will be measured and to which an applicant for accreditation must commit itself.

(2) The Regulatory Authority may from time to time provide advice to social housing institutions in meeting the requirements of the Code of Conduct and issue directives or instructions indicating specific actions, policies, procedures or processes that social housing institutions must have in place in order to meet the requirements.

(3) Where a social housing institution follows such advice or adopts and adheres to recommended actions, policies, procedures or processes completed in sub-regulation (2), it shall be considered to be in compliance with the requirements.

(4) A social housing institution that does not comply with the requirements may be subjected to instructions, intervention and withdrawal of accreditation as contemplated in section 12 of the Act.

Good governance requirements

18. (1) In order to demonstrate good governance, a social housing institution must—

- (a) comply with the law applicable to its business activities;
- (b) maintain its independence from other entities, except to the extent that it may be controlled as a subsidiary by another social housing institution;

- (c) be governed by a governing body consisting of appropriately skilled and experienced persons effectively leading the institution;
- (d) have rigorous operational procedures and committee structures, where appropriate;
- (e) maintain the highest standards of ethical conduct in business dealings with other organisations and individuals;
- (f) put in place suitable arrangements to ensure good relations with stakeholders;
- (g) not bring social housing in disrepute;
- (h) safeguard the public investment in the housing stock it owns and manages;
- (i) develop a business strategy with objectives supporting its main objective,
- (j) ensure that an adequate system of risk management is in place to identify and mitigate key risks;
- (k) co-operate with the Regulatory Authority in the discharge of its regulatory obligations;
- (l) accept accountability for the actions of subsidiaries and other parties, undertaking work on its behalf and falling within the Regulatory Authority's jurisdiction; and
- (m) not discriminate against any person or persons on any of the grounds set out in section 9 of the Constitution, including individuals affected by HIV/AIDS.

Financial sustainability requirements

19. (1) In order to demonstrate financial sustainability, a social housing institution must—

- (a)* ensure that it is viable by generating adequate resources from activities and the prudent accessing of external funds to meet the financial obligations of the carrying on of its affairs;
- (b)* meet loan repayments and loan conditions;
- (c)* generate a minimum surplus or yield as determined by the Regulatory Authority from time to time;
- (d)* have a comprehensive and accurate financial business plan;
- (e)* have a vigorous financial control policy in place;
- (f)* engage auditors to review adherence with the financial control policy and other key policies, regulations and legal requirements on an at least annual basis,
- (g)* carry out regular and rigorous internal checks of the effectiveness of financial controls,
- (h)* have effective accounting systems, financial management systems and management accounting procedures in place;
- (i)* produce reliable and timely financial information for the governing body in the form specified by the Regulatory Authority;
- (j)* manage costs effectively; and
- (k)* report regularly to lenders and other stakeholders on the overall

financial status of the institution.

Service delivery requirements

20. (1) In order to demonstrate excellent service delivery, a social housing institution must—

- (a) let properties fairly, according to transparent criteria that ensure equity and the sustainability of tenancies;
- (b) let properties in accordance with government policy and the basis upon which the grant for their development was awarded, to ensure that target groups are housed;
- (c) enter in to leases and issue house rules which are fair and meet best practice;
- (d) have policies in place for the termination of leases;
- (e) collate information on the residential profile of each project, to include income levels, family sizes, age of residents and residents with special needs or in receipt of employer assistance;
- (f) provide, where appropriate and affordable to the social housing institution, appropriate training and support to residents to sustain tenancies;
- (g) give tenants an opportunity to participate in the management of their homes and communities and influence the management strategy;
- (h) calculate rentals in a way which is consistent with the terms of grant funding for the development of the properties, and complies with directives of the Regulatory Authority in this regard;

- (i) ensure that tenants are advised of increases in rents in the manner set out in their leases, ensure that such increases in rental are consistent with the stipulation regarding the calculation of rentals in paragraph (h);
- (j) have in place a vigorous and well-managed rental collection policy and process, including effective means of dealing with rental arrears;
- (k) implement a full range of policies to support other elements of tenancy management including conflict resolution;
- (l) make adequate provision for the carrying out of periodic large-scale works to buildings;
- (m) have management arrangements and staffing resources that are sufficient to deliver excellent service;
- (n) collect information on the performance of the full range of services provided by the institution, report this information on a regular basis to the governing body and, in the prescribed manner and time frame, to the Regulatory Authority;
- (o) seek, in a systematic manner, to improve the efficiency, economy and effectiveness of its service delivery on an on-going basis; and
- (p) work with the spheres of government and other stakeholders to develop new homes that meet the economic and social needs of the communities and which are sustainable environments where people want to live.

Chapter 6

Investment Criteria

21. The Regulatory Authority may invest in social housing institutions against the following criteria:

- (a) Land and services criteria, as specified in regulation 22;
- (b) housing design criteria, as specified in regulation 23;
- (c) marketing arrangement criteria, specified in regulation 24;
- (d) end user agreement, specified in regulation 25;
- (e) rental and tenure costs, specified in regulation 26;
- (f) financial viability, specified in regulation 27;
- (g) governance and management criteria, specified in regulation 28;
- (h) management capacity, specified in regulation 29;
- (i) financial administration, specified in regulation 30; and
- (j) building and property maintenance, specified in regulation 31.

Land and Service Criteria

22. (1) In order to comply with the land and service criteria, the social housing institution responsible for the housing stock during development, must—

- (a) be the registered owner of the land to be utilized for development or have a long term lease of the land with the public sector; or
- (b) secure rights to develop the land through a Land Availability Agreement, with the improved land to be transferred to the social housing institution at a later stage.

(2) If the land for the project is located in a proclaimed township, the developer or the social housing institution concerned must institute a township establishment process leading up to proclamation with land use rights established to suit the project.

(3) If the land for the project is located in a proclaimed township, the developer or social housing institution concerned must ensure that the housing project complies with the present zoning, if this is not the case, a rezoning process must be implemented to obtain the desired zoning and land use rights.

(4) The developer or the social housing institution concerned must secure access to bulk services, such as water, electricity and sewerage, and road access to the municipal street network, either by way of a service agreement or *via* written confirmation from the municipality.

(5) The availability of bulk services as well as the agreed connection points must be recorded.

Housing Design Criteria

23. (1) In order to comply with the housing criteria, the internal services must be designed and constructed to comply with municipal requirements and must be optimal in terms of upfront capital cost and subsequent maintenance obligations.

(2) The metering of consumption (water and electricity) must be addressed and

implemented to suit both the municipality's and the social housing institution's administrative capacities.

(3) The design of housing units must comply with land use rights and municipal bylaws, also taking cognizance of future tenure upgrading.

(4) The design of individual units must comply with the minimum standards laid down in the Housing Code and Building Regulations with respect to unit size, room size and level of finish.

(5) Housing must comprise of medium-to-high density units. Free-standing units on individual even are not eligible.

(6) A range of accommodation options should be offered, from 1 bedroom units to 3 bedroom units.

(7) The mix of housing units should be established from market research and be adaptable during project implementation to respond to actual demand.

(8) Tenure is to be rental only and to be held in perpetuity as such.

Marketing Arrangement Criteria

24. The social housing institution must have a well documented application procedure which must include training programmes for applicants and a selection process against defined qualification criteria.

End User Agreement

25. (1) The social housing institution must have a lease agreement that complies with legislation and the Housing Code in all respects.

(2) The agreement contemplated in subregulations (1) must be backed up by rules governing the conduct of both the social housing institution and end users.

Rentals and Tenure Costs

26. (1) The social housing institution must establish, for a defined time period, the costs relating to the tenure option offered, including any levies and

administration charges.

(2) The gross rentals must—

- (a) cover per unit operating costs; and
- (b) not exceed 33.3% of monthly household income, as contemplated in subregulation (3).

(3) Target rentals must be as follows:

- (a) A minimum of 30% of the units must support rentals for households earning less than R 3,500 per month; and
- (b) a maximum of 70% of the units must support rentals for households earning between R 3,501 and R 7,500 per month.

(4) Households earning more than R 7,500 per month may not be eligible.

Financial Viability

27. (1) The social housing institution must provide full details of the manner in which it plans to meet its financing obligations for development loans and ongoing maintenance and management of the development property.

(2) The social housing institution must demonstrate project viability including—

- (a) the financial resources that are available to cover any short to medium-term operating deficits;
- (b) contingency plans for vacancy and bad debt;
- (c) applicable annual escalations; and
- (d) detailed cash flows over loan or debt period

(3) The project financial feasibility analysis must demonstrate a minimum internal rate of return (IRR) set as the prime overdraft rate as set by the South African

Reserve Bank plus 4.5%.

(4) Private sector firms must provide an equity contribution to a minimum of 20% of the full development cost of the social housing units in order to be eligible for the grant.

Governance and Management Criteria

28. (1) The social housing institution must be registered as a legal entity in the form of a company, trust or co-operative under the respective legislation.

(2) The social housing institution must comply with all legal and regulatory requirements applicable to the institution's legal entity.

(3) The social housing institution should have an effective board of directors or trustees and must set up a governing structure.

(4) The board of directors must establish decision-making authority and policies that should encompass—

(a) audit and remuneration;

(b) procurement; and

(c) finance and credit risk.

(5) The board of directors must establish company procedures for consistent management application and operational efficiency, which procedures must cover—

(a) human resource management and management responsibilities;

(b) procurement;

(c) financial administration and accounting;

(d) management information system; and

- (e) company secretarial, legal and audit obligations.

Management Capacity

29. (1) The social housing institution must demonstrate that it has sufficient management capacity and staffing plan which are flexible and responsive to changes in the number of units under development and changes to management.

(2) The social housing institutions must be financially viable and with sufficient financial resources (liquidity) to ensure operational self-sufficiency.

(3) The social housing institution must produce audited financial statements (income statements and balance sheets) and report its financial standing to its shareholders and investors.

Financial Administration

30. The social housing institution must possess the capacity to effectively manage the financial affairs of the project and the social housing institution.

Building / Property Maintenance

31. (1) The social housing institution must have effective maintenance procedures and provisions to ensure that building retain its value.

(2) Repairs and maintenance procedures must be in place for-

- (a) emergency repairs on account of services malfunctioning;
- (b) routine maintenance; and
- (c) planned maintenance.

Chapter 7

Entry, enquiry and seizure of documents

Powers and duties of Regulatory Authority in respect of entry, enquiry or seizure of documents

32. (1) The Regulatory Authority may take any action contemplated in section 12(2) of the Act only—

- (a)* after giving reasonable notice to the occupier and the social housing institution, as the case may be;
- (b)* at such time of day as is reasonable in the circumstances;
- (c)* with—
 - (i)* the prior consent of the occupier; or
 - (ii)* the authority of a warrant ; and
- (d)* in strict compliance with good order and decency.

(2) A Regulatory Authority staff member may be accompanied by a member of the South African Police Service during an inspection under the Act.

Chapter 8

Agreements

Agreements with other delivery agents

33. An agreement concluded between the Regulatory Authority and other delivery agents must—

- (a)** specify the terms and conditions—
 - (i)** of the grant;
 - (ii)** for monitoring the grant; and
 - (iii)** for the utilisation of the grant;
- (b)** provide for regular monitoring by the Regulatory Authority of the management by the other delivery agent of the social housing portion of the project concerned;
- (c)** impose regular reporting requirements on the other delivery agent;
- (d)** stipulate that the social housing portion of the project must be occupied only by low to medium income households;
- (e)** require the other delivery agent to refurbish and maintain the buildings comprising the social housing portion of the project in accordance with good practice and to generally acceptable standards;
- (f)** require the other delivery agent's lease agreements governing the occupation of the social housing portion of the project to oblige the occupants to give access to the Regulatory Authority to the premises concerned on reasonable notice and at such time of the day as is

reasonable in the circumstances to inspect the premises in order to monitor compliance by the other delivery agent with the provisions of the delivery agent's agreement with the Regulatory Authority as contemplated in this regulation;

(g) provide that, in the event of material breach of the agreement, the Regulatory Authority shall be entitled to—

(i) recover from the other delivery agent either the amount of the capital grant or the value of the social housing portion of the project plus appreciation, whichever is the greater;

(ii) require—

(aa) the transfer to another other delivery agent or a social housing institution; or

(bb) disposal of the social housing portion, if it is severable from the remainder of the project;

(h) require the other delivery agent's compliance with the terms of the agreement to be secured by mortgage over the social housing portion or over the whole project, which mortgage must be subordinate to any mortgage to secure finance for the project advanced by a commercial bank or other financial institution.

Agreements with provincial governments

34. An agreement entered and concluded between the Regulatory Authority and Provincial Governments must—

(a) set out the respective roles and responsibilities of the Regulatory Authority and the Provinces in respect of social housing;

- (b) specify the proposed restructuring zones;
- (c) specify the process to approve, allocate and administer capital grants as contemplated in the social housing investment plan, and in this regard—
 - (i) set out the process for determination of annual social housing programme and institutional subsidy allocation;
 - (ii) set out the approvals process and timelines; and
 - (iii) set out the payments process and timelines.
- (d) provide for regular monitoring of social housing projects by the Province and in this regard—
 - (i) set out the monitoring information requirements;
 - (ii) set out the monitoring process and timelines; and
 - (iii) set out the minimum reporting submission requirements and submission dates to the Regulatory Authority.

Agreements with the National Housing Finance Corporation

35. An agreement concluded between the Regulatory Authority and the National Housing Foundation Corporation (NHFC) must—

- (a) set out the roles and responsibilities of the NHFC and the Regulatory Authority in respect of social housing;

-
- (b) specify the eligibility criteria of social housing projects for loan funding;
 - (c) specify the terms and conditions of such loan funding—
 - (i) terms;
 - (ii) interest rate; and
 - (iii) conditions (such as guarantees, collateral etc);
 - (d) specify the process to approve, allocate and administer such loan funding and in this regard—
 - (i) set out the approvals process and timelines; and
 - (ii) set out the payments process and timelines;
 - (e) provide for regular monitoring of social housing projects in respect of loan performance and in this regard—
 - (i) set out the monitoring information requirements;
 - (ii) set out the monitoring process and timelines; and
 - (iii) set out the minimum reporting submission requirements and submission dates to the Regulatory Authority.

Chapter 10**General****Offences and penalties**

36. Any person who contravenes or fails to comply with any provision of these Regulations shall be guilty of an offence and shall be liable upon conviction to a fine or imprisonment not exceeding a period of six months, or to both a fine and such imprisonment

Short title

37. These Regulations are called the Social Housing Regulations.

ANNEXURE**APPLICATION FOR ACCREDITATION****Application for accreditation to the Social Housing Regulatory Authority to carry on the business of social housing in terms of the Social Housing Act, 2008 (Act No. 16 of 2008)****Company Information:**

Name of the Social Housing Institution/Company (Entity):	
Type of company (Legal entity, e.g. Pty Ltd):	
Company registration number (e.g. CK)	
Year of establishment:	
If registered as a Non-Profit Organisation, please supply PBO registration number:	
Registered address of company:	
Physical address of head office:	
Postal address:	
Email address:	
Tel:	
Cell:	
Fax:	

Existing Property Portfolio:

Project name:	Indicate existing or planned	Location - Province	Location - City/Town/Suburb	No. of Units
1. Project a				
2. Project b				
3. Project c				
4. Project d				
5. Project e				
6. Project f				
7. Project g				
8. Project h				
9. Project i				
10. Project j				
Total Units				

Ownership and Management of Units - Number of units:	
Owned and managed by the entity	
Owned by the entity, but management is outsourced to an external entity	
Managed by the entity on behalf of an other external owner (earning management fees only)	
Other (please specify)	
Total Units	
Rental Bands - Number of units being let at:	
< R600 p.m.	
Between R601 and R750 p.m.	
Between R751 and R875 p.m.	
Between R876 and R1,050 p.m.	
Between R1,051 and R2,250 p.m.	
> R2,250 p.m.	
Total Units	
Subsidy Regime - Number of units that have received:	
Institutional subsidy	
Restructuring Capital Grant	
Unsubsidised	
Total Units	
Governance	
Total number of directors	
Number of directors who are councillors/Provincial MEC's	
Number of directors who are council/provincial officials	
Number of executive directors	
Number of non-executive directors	
Staffing	
Head office staff numbers (permanent)	
Head office staff numbers (contract)	
Project staff numbers (permanent)	
Project staff numbers (contract))	
Total Staff numbers	

Declaration

I the undersigned, being the duly authorised signatory of the above applicant hereby acknowledge and warrant that:

- 1) All information given is true, accurate and correct. I have reviewed the information and confirm the correctness thereof.
- 2) I have provided all information which is directly relevant and material to my applications.
- 3) I consent to the Social Housing Regulatory Authority (SHRA) undertaking any checks it may deem necessary to verify any information.

The following documents have been attached (please tick):

Institution's founding documents (Articles & Memorandum of Association)

Shareholders agreement

Institution's latest business plan

Institution's operational policies

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Signed on behalf of the applicant

Name:

Signature:

Date: