

(26 January 2012 - to date)

SOCIAL HOUSING ACT 16 OF 2008

*(Government Notice 1199 in Government Gazette 31577 dated 5 November 2008. Commencement date:
1 September 2009 [Proc. No. 55 in Gazette 32545 dated 31 August 2009])*

SOCIAL HOUSING REGULATIONS

*Government Notice R51 in Government Gazette 34970, dated 26 January 2012. Commencement date:
26 January 2012.*

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.

(Signed)

Tokyo Mosima Gabriel Sexwale
Minister of Human Settlements
12 Dec 2011

SCHEDULE

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Chapter 1

Definitions

1. Definitions

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 10(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;

“municipal entity” means a municipal entity as defined in terms of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000);

“occupancy agreement” means an agreement between a housing co-operative and a member in terms of the Co-operatives Act, 2005 (Act No. 14 of 2005);

“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, accreditation, qualifying criteria

2. Application for accreditation

- (1) An institution that carries on or that intends to carry on the business of social housing must apply in writing on the form that corresponds substantially with Annexure A, as may be amended from time to time, 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 rules of the Regulatory Authority in order to assess the applicant's -
 - (i) arrangements for good governance;
 - (ii) financial sustainability;
 - (iii) effective tenant management; and
 - (iv) efficient property-management capacity.
- (3) Applications must be submitted to the Regulatory Authority in the following manner:
 - (a) Post: Social Housing Regulatory Authority
Postnet Suite 240
Private Bag X30500
Houghton
2041;
 - (b) Hand delivery: Ground Floor, Building B
Sunnyside Office Park
32 Princess of Wales
Terrace Parktown,
Johannesburg, 2193
 - (c) facsimile: 086 720 2484

- (d) electronic mail: regulation@shra.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 17, 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.

3. Qualifying criteria for accreditation of social housing institutions

- (1) The three (3) main categories of social housing institutions that the Regulatory Authority shall consider accrediting are -
 - (a) corporated entities that conduct its affairs on a non-profit basis;
 - (b) municipal entities; and
 - (c) housing co-operatives.
- (2) The qualifying criteria that must be applied by the Regulatory Authority for purposes of accreditation as a social housing institution are that the institution must -
 - (a) be constituted in the appropriate legal form, as contemplated in subregulation (3);
 - (b) with the exception of municipal entities, that the founding documents must indicate that profits will not be distributed to members and that it can only be used to further social housing, as contemplated in subregulation (4);

- (c) conduct its affairs in compliance with the principles of good governance, as contemplated in subregulation (5);
 - (d) have a business plan which illustrates financial sustainability, as contemplated in subregulation (6);
 - (e) promote effective tenant management, as contemplated in subregulation (7);
 - (f) promote and ensure efficient property management, as contemplated in subregulation (8); and
 - (g) have property development plans, as contemplated in subregulation (9).
- (3) In order to comply with the criteria of appropriate legal form, the applicant must be -
- (a) a company having a share capital, whether public or private;
 - (b) a company limited by guarantee or not for profit in terms of the Companies Act, 2008 (Act No. 71 of 2008);
 - (c) a co-operative registered as a housing co-operative under the Co-operative 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; and
 - (g) a trust.
- (4) With the exception of municipal entities, in order to comply with the criteria of not for profit, the founding documents of the applicant institution must provide that -
- (a) the applicant'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, with the exception only of payments in good faith of reasonable remuneration for goods or services actually delivered or rendered to or at the direction of the applicant;

- (b) on its winding-up, deregistration or dissolution of the applicant, its assets remaining after the satisfaction of all its liabilities shall be given or transferred to one or more other social housing institutions, to be determined by the members, shareholders or trustees of the applicant, failing which to be determined by the High Court at or before the time of its winding-up, deregistration or dissolution; and
 - (c) applicants that are municipal entities must not distribute any profits to members and such profits must be used to advance social housing.
- (5) 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 the low to medium income households (excluding immediate individual ownership and a contract as defined under the Alienation and 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 is a municipal owned entity or that it may be controlled as a subsidiary by another social housing institution;
 - (c) comply with the law applicable to its business activities; and
 - (d) be governed by a Governing body consisting of appropriately skilled and experienced persons effectively leading the institution;
 - (e) decision making -
 - (i) independent chairperson;
 - (ii) policies, procedures and delegation for the CEO and staff outlining how the governing body exercise control over significant decisions; and
 - (iii) consider reports that inform decision making in relation to the following; financial status, resident/client management and support services, property management, project development and any other reports to inform decision making;
 - (f) legal compliance -
 - (i) a legal compliance report that indicates how the social housing institution complies with all legal, statutory and contractual requirements;

- (ii) a report that indicates how the social housing institution complies with the new Companies Act and King (iii) guidelines;
 - (iii) a description of how the social housing institution undertakes audits of its compliance and legal requirements;
 - (iv) co-operate with the Regulatory Authority in the discharge of its regulatory functions; and
 - (v) accept accountability for the actions of subsidiaries and other parties undertaking work on its behalf and falling within the Regulatory Authority's jurisdiction;
- (g) a business strategy with objectives supporting its main object of providing social housing, the strategic plan must include a purpose which links to broader policy, strategic goals that links to performance indicators, annual business operational plan, budget including the provision for an annual review;
- (h) effective governance -
- (i) an effective governance arrangement that deliver the aims, objectives and intended outcomes in an effective, transparent and accountable manner; and
 - (ii) clear roles, responsibilities and accountabilities for the board, chair and chief executive and produce an annual assessment of effectiveness of the arrangements;
- (i) integrity standards -
- (i) a rigorous anti-fraud and anti-corruption system in place that deals with reporting, investigation, referral and allegation of fraud, corruption and criminal conduct;
 - (ii) a code of conduct for the governing body and staff that provides for a written undertaking to comply with it, including systems that deals with the breach thereof; and
 - (iii) a conflict of interest policy and system to deal with conflicts;
- (j) reputation of social housing sector -
- (i) to maintain the highest standards of ethical conduct in business dealings with other organisations and individuals;
 - (ii) should not bring social housing into disrepute; and

- (iii) should 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 and individuals with special needs;
 - (k) adequate system of risk management to identify and mitigate key risks; and
 - (l) organisation -
 - (i) staffing and costs. The Regulatory Authority to set indicators at level of rule and benchmarks which will be revised periodically for publication;
 - (ii) adequate and rigorous operational policies and procedures, the detail of which is contained in the rules; and
 - (iii) 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 to the Regulatory Authority.
- (6) In order to comply with the criteria of financial sustainability, the applicant must have the following in place:
- (a) a comprehensive and accurate financial business plan that includes a fully costed and modelled development plan and 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) policies and procedures that include effective accounting systems, financial management systems and management accounting procedures in place;
 - (c) Financial Management -
 - (i) a cost management system that manage costs effectively;
 - (ii) a reporting system that includes regular reporting to lenders and other stakeholders on the overall financial status of the institution; and
 - (iii) a system of control that include a vigorous financial control policy, the engagements of auditors to review adherence with the financial control policy and other key policies, regulations and legal requirements on at least an annual basis and engage auditors to carry out rigorous internal checks on the effectiveness of the financial controls;
 - (d) Financial Performance -

- (i) audited annual financial statements including management letter;
 - (ii) meet loan repayments;
 - (iii) generate a minimum surplus or yield as determined by the Regulatory Authority from time to time;
 - (iv) safeguard the public investment in the housing stock it owns and manages; and
 - (v) meet the set thresholds (as set periodically by the Regulatory Authority) of the financial performance Key Performance Indicators (KPI) contained within the rules;
- (7) In order to comply with the criteria of effective tenant/membership management, the applicant must have the following in place:
- (a) management arrangements and staffing resources that are sufficient to deliver excellent tenant/membership management service;
 - (b) a tenant/membership management plan in place;
 - (c) systems -
 - (i) policies and procedures in place and implement a full range of tenancy/membership policies to support tenancy/membership management including take on, letting, letting management, dispute/conflict resolution and termination; and
 - (ii) a system of control in place to manage tenant's complaints effectively;
 - (d) tenant/membership -
 - (i) provide information and communication that is appropriate to the tenants/member about the standards of housing services and how to access these housing services; and
 - (ii) include the marketing of units, a fair, open and transparent application process, must include the screening of prospective clients in order to establish eligibility and affordability including a tenant/end user training programme;
 - (e) letting management -
 - (i) let properties fairly, according to transparent criteria and ensure equity and sustainability of tenancies;

- (ii) 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; and
 - (iii) enter into leases/occupancy agreements and issue house rules which are fair and meet best practice;
- (f) a tenant/membership roll in place that collates information on the residential profile of each project, to include income, family sizes, age of residents and residents with special needs or in receipt of employer assistance;
- (g) communication strategy that includes the provision of information regarding application criteria and tenant/member management services for potential applicants and tenants/members and how tenants can communicate with the Social Housing Institution;
- (h) complaints management system in place to create awareness and understanding of internal and external complaints mechanisms;
- (i) a dispute resolution system that creates understanding of internal and external avenues for appeal;
- (j) an exit/termination system in place that deals with notice by a tenant or the social housing institution and that makes provision for effectively managing and dealing with co-ordinated boycotts of rental;
- (k) a periodic tenant/membership satisfaction survey that indicates tenant's satisfaction with the services and service offering and how the social housing institution addresses the results to improve tenant management services;
- (l) tenant/membership consultation and empowerment programme that addresses an approach to consult with tenants/membership to give them an opportunity to influence the development and management strategy and to provide appropriate training to tenants/membership to sustain tenancies/memberships and build capacity to be more effectively involved;
- (m) support arrangements and referral system in place to deal with identified support; and
- (n) a community engagement and neighborhood *[sic]* involvement plan in place.
- (8) In order to comply with the criteria for efficient property management the applicant must have the following in place:

- (a) a system to meet the thresholds of the property management KPI's as contained within the rules;
- (b) a housing portfolio plan that takes into account maintenance, acquisition, disposal, managing property life cycle and efficient use of housing stock;
- (c) systems -
 - (i) policies and procedures in place for property management that includes maintenance management, rental management and vacancy management; and
 - (ii) control system in place to ensure that maintenance complaints and vacancies are turned over in the prescribed timeframes and at a good quality as prescribed in the maintenance and vacancy policies;
- (d) project profiling that includes the names of projects, date of delivery, number of units, location, types of units and rentals;
- (e) maintenance management -
 - (i) have management arrangements and staffing resources that are sufficient to deliver excellent property management service;
 - (ii) a maintenance plan which makes adequate provision for the carrying out of periodic large scale works to buildings, reactive maintenance and unit turnover maintenance;
 - (iii) a comprehensive inspection of housing stock at least every three years;
 - (iv) a complaints management system in place that must indicate number, type, costs, quality and turnover time; and
 - (v) a tenant/membership satisfaction survey that surveys the tenant satisfaction with the condition and maintenance of the property and that indicates what action the social housing institution will take to improve the maintenance services;
- (f) rental management -
 - (i) a rent setting policy that 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;

- (ii) a rent increase system that ensures 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 calculation of rentals; and
 - (iii) a rent collection policy and system that is vigorous and well-managed, including effective means of dealing with rental arrears.
- (g) a vacancy management system that include, vacancy rates: number of properties tenanted as a proportion of the number of properties, average turn-around time for void properties, number of void days divided by void properties, average turn-around time for vacant properties and number of vacant days divided by vacant properties; and
- (h) efficient management costs that seek, in a systematic manner, to improve the efficiency, economy and effectiveness of its service delivery on an on-going basis.
- (9) In order to comply with the criteria for property development, the applicant must have the following in place:
- (a) planning and costs of developments that includes working with the spheres of government and other stakeholders to develop new homes that meet the economic and social needs of the communities within a sustainable environments where people want to live;
 - (b) to use housing assets for financial leverage;
 - (c) plans to produce quality accommodation, to ensure that tenants'/membership homes meet the standard set out in the social housing programme guidelines and continue to maintain their homes to at least this standard after this date; and
 - (d) the social housing institution/delivery agent must meet the standards of design and quality applicable at the time when the home was built.

4. Provisionally accredited social housing institutions at commencement of Act

- (1) The Regulatory Authority may request a previously 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) A previously 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.

5. Register of social housing institutions

- (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 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, the date and reasons therefore.
- (2) The fee for an inspection of the register and 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.

CHAPTER 3

Compliance monitoring

6. Reporting Requirements

- (1) Social housing institutions must on a quarterly basis being June, September, December and March, report to the Regulatory Authority where the information as contemplated in regulation (3) must be provided.

- (2) Social housing institutions must on an annual basis and within three months of the new financial year provide:
 - (a) annual audited financial statements; and
 - (b) South African Revenue Service tax certificate of good standing (to be valid for at least six months from date of submission); and

7. Annual approval of business plan and operational plan

- (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.

8. Permission to change documents

- (1) A social housing institution must request permission from 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.

9. Inspections

- (1) The Regulatory Authority will conduct regular building condition inspections in order to ensure that the value of the stock is maintained.
- (2) The Regulatory Authority will conduct tenancy audits in order to ensure that the targeted incomes groups are housed.

10. Compliance declaration

- (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.

11. Forensic investigations and audit reports

- (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.

12. Internal review

- (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 Regulatory Authority
Postnet Suite 240
Private Bag X30500
Houghton
2041;
 - (b) Hand delivery: Ground Floor, Building B
Sunnyside Office Park
32 Princess of Wales
Terrace Parktown,
Johannesburg, 2193
 - (c) facsimile: 086 720 2484
 - (d) electronic mail: regulation@shra.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.

13. Transfer of social housing stock

- (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.

14. Disposal of social housing stock funded with public funds

- (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 and it is satisfied on reasonable grounds that there is sufficient social housing in the area and there is no need to retain the relevant housing stock as social housing.

15. Monitoring performance of grants

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

16. Withdrawal of accreditation

- (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.

Chapter 4

Code of conduct

17. Status of Code of Conduct

Prepared by:

- (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 contemplated 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.
- (5) It shall be an undesirable practice for a social housing institution to -
 - (a) alienate its tangible and/or intangible assets for substantially less than their fair value;
 - (b) award a contract for services or goods without engaging in a fair and reasonable process of evaluating a range of potential service providers and to select a service provider best suited to the needs of that social housing institution, taking into consideration the costs; capacity; experience and financial soundness; and
 - (c) enter into a contract with a party in which any employee, trustee, director, or other officer has a direct or indirect financial interest.
- (6) The additional criteria for Code of Conduct are as contemplated in regulation (3).

Chapter 5

Investment Criteria

18. The Regulatory Authority may invest in social housing institutions against the following criteria:
 - (a) Land and services criteria, as specified in regulation 19;
 - (b) housing design criteria, as specified in regulation 20;
 - (c) marketing arrangement criteria, specified in regulation 21;

- (d) end user agreement, specified in regulation 22;
- (e) rental and tenure costs, specified in regulation 23;
- (f) financial viability, specified in regulation 24;
- (g) governance and management criteria, specified in regulation 25;
- (h) management capacity, specified in regulation 26;
- (i) financial administration, specified in regulation 27; and
- (j) building and property maintenance, specified in regulation 28.

19. Land and Service Criteria

- (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 minimum lease period of 30 years 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.

20. Housing Design Criteria

- (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 by-laws, 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 erven are not eligible.
- (6) A range of accommodation options should be offered, from +bachelor 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 and be held in perpetuity as such and shared deferred ownership in the case of co operative housing.

21. Marketing Arrangement Criteria

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.

22. End User Agreement

- (1) The social housing institution must have a lease/membership agreement that complies with legislation and the Housing Code in all respects.
- (2) The agreement contemplated in subregulation (1) must be backed up by rules governing the conduct of both the social housing institution and end users.

23. Rentals/Levies and Tenure Costs

- (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/levies 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/levies must be as follows:
 - (a) a minimum of 30% of the units must support rentals/levies for households earning less than R 3,500 per month; and
 - (b) a maximum of 70% of the units must support rentals/levies for households earning between R 3,501 and R 7,500 per month.
- (4) Households earning more than R 7,500 per month are not eligible other than if it is amended in the Housing Code.

24. Financial Viability

- (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.

25. Governance and Management Criteria

- (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.

26. Management Capacity

- (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.

27. Financial Administration

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

28. Building / Property Maintenance

- (1) The social housing institution must have effective maintenance procedures and provisions to ensure that buildings retain their 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.
- (3) The Social Housing Institution must insure the housing stock, including insurance for replacement.

29. Accredited service providers

- (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 6

Entry, enquiry and seizure of documents

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

- (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 7

Agreements

31. Agreements with other delivery agents

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 as contemplated in regulation 23(4).
- (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 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.

- (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 a social housing institution or another delivery agent; and
 - (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.

32. Agreements with provincial governments

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.

33. Agreements with the National Housing Finance Corporation

An agreement concluded between the Regulatory Authority and the National Housing Finance 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 including -
 - (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 8

General

34. Offences and penalties

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.

35. Short title

These Regulations are called the Social Housing Regulations.

ANNEXURE A**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. <i>Project a</i>				
2. <i>Project b</i>				
3. <i>Project c</i>				
4. <i>Project d</i>				
5. <i>Project e</i>				

Prepared by:

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:				
< R601 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				
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		
Signed on behalf of the applicant		
Name:		
Signature:		
Date:		

ANNEXURE B

ACRONYMS

In these Regulations the following Acronyms shall have the meaning so assigned, unless the context otherwise indicates

1. **"KPIs"** - Key Performance Indicators.
2. **"IRR"** - Internal Rate of Return.
3. **"NHFC"** - National Housing Finance Corporation.
4. **"PBO"** - Public Benefit Organisation.
5. **"SHRA"** - Social Housing Regulatory Authority.