



Housing and Planning Act 2016

2016 CHAPTER 22

PART 4

SOCIAL HOUSING IN ENGLAND

CHAPTER 3

RENTS FOR HIGH INCOME SOCIAL TENANTS

Mandatory rents for local authority tenants

80 Mandatory rents for high income local authority tenants

- (1) The Secretary of State may by regulations make provision about the levels of rent that an English local housing authority must charge a high income tenant of social housing in England.
- (2) The regulations may, in particular, require the rent—
 - (a) to be equal to the market rate,
 - (b) to be a proportion of the market rate, or
 - (c) to be determined by reference to other factors.
- (3) The regulations may, in particular, provide for the rent to be different—
 - (a) for people with different incomes, or
 - (b) for social housing in different areas.
- (4) The regulations may create exceptions for high income tenants of social housing of a specified description.
- (5) The regulations may require a local housing authority to have regard to guidance given by the Secretary of State when determining rent in accordance with the regulations.
- (6) Regulations under this section are referred to in this Chapter as “rent regulations”.

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81 Meaning of “high income” etc

- (1) Rent regulations must—
 - (a) define what is meant by “high income” for the purposes of this Chapter, and
 - (b) make provision about how a person’s income is to be calculated.
- (2) The regulations may, in particular—
 - (a) define “high income” in different ways for different areas;
 - (b) specify things that are, or are not, to be treated as income;
 - (c) make provision about the period by reference to which a person’s income is to be calculated (which may be a period in the past);
 - (d) make provision about how a person’s income is to be verified;
 - (e) require a person’s household income (as defined by the regulations) to be taken into account;
 - (f) require a local housing authority to have regard to guidance given by the Secretary of State when calculating or verifying a person’s income.

82 Information about income

- (1) Rent regulations may give a local housing authority the power to require a tenant to provide information or evidence for the purpose of determining whether the local housing authority is obliged by the regulations to charge a specific level of rent and what that level is.
- (2) Rent regulations may require an English local housing authority to charge the maximum rent to a tenant who has failed to comply with a requirement.
- (3) Regulations made in reliance on subsection (1) may, in particular, make provision about—
 - (a) the kind of information or evidence that may be required;
 - (b) the time within which and the manner and form in which the information or evidence is to be provided.
- (4) In subsection (1) “tenant” includes prospective tenant.
- (5) In subsection (2) “the maximum rent” means the rent that a local housing authority is required to charge a high income tenant of the premises under section 80 (or, if regulations under section 80(3)(a) provide for different rents for people with different incomes, the rent that a person in the highest income bracket would be required to pay).

83 HMRC information

- (1) HMRC may disclose information for the purpose of enabling a local housing authority to determine whether it is obliged by rent regulations to charge a tenant a specific level of rent and what that level is.
- (2) The information may only be disclosed to—
 - (a) a local housing authority,
 - (b) the Secretary of State for the purposes of passing the information to local housing authorities,
 - (c) a public body that has been given the function of passing information between HMRC and local housing authorities by regulations under subsection (3), or

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- (d) a body with which the Secretary of State has made arrangements for the passing of information between HMRC and local housing authorities.
- (3) The Secretary of State may by regulations—
 - (a) give a public body the function mentioned in subsection (2)(c), and
 - (b) make provision about the carrying out of that function.
- (4) The Secretary of State must obtain HMRC’s consent before making—
 - (a) arrangements under subsection (2)(d), or
 - (b) regulations under subsection (3).
- (5) Information disclosed under this section to the Secretary of State or to a body mentioned in subsection (2)(c) or (d) may be passed on to a local housing authority for which it is intended.
- (6) Information disclosed under this section may not otherwise be further disclosed without authorisation from HMRC.
- (7) Where a person contravenes subsection (6) by disclosing any revenue and customs information relating to a person whose identity—
 - (a) is specified in the disclosure, or
 - (b) can be deduced from it,section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act.
- (8) In this section—
 - “HMRC” means the Commissioners for Her Majesty’s Revenue and Customs;
 - “revenue and customs information relating to a person” has the meaning given by section 19(2) of the Commissioners for Revenue and Customs Act 2005;
 - “tenant” includes prospective tenant.

84 Reverting to original rent levels

- (1) Rent regulations may include provision for the purpose of ensuring that where a requirement imposed under section 80(1) ceases to apply, the rent is changed to what it would have been if the requirement had never applied.
- (2) Rent regulations may include provision for the purpose of ensuring that where—
 - (a) a local housing authority is required by section 82(2) to charge the maximum rent because of a tenant’s failure to provide information or evidence, and
 - (b) the tenant subsequently provides the necessary information or evidence,the rent is changed to what it would have been if section 82(2) had never applied.

85 Power to change rents and procedure for changing rents

- (1) Rent regulations may give a local housing authority power to change the rent payable under a tenancy for the purpose of complying with the regulations.

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- (2) Rent regulations may make provision about the procedure for changing rent to comply with the regulations (whether the change is made using a power given by regulations under subsection (1) or otherwise).
- (3) Regulations made in reliance on subsection (2) may, in particular—
 - (a) make provision about the review of decisions to increase rent;
 - (b) give rights of appeal to the First-tier Tribunal and amend existing rights of appeal.
- (4) Regulations under this section may amend any provision made by or under an Act passed before this Act or in the same Session.

86 Payment by local authority of increased income to Secretary of State

- (1) Rent regulations may require a local housing authority to make a payment or payments to the Secretary of State in respect of any estimated increase in rental income because of the regulations.
- (2) The amount of a payment is to be calculated in accordance with the regulations.
- (3) The regulations may provide for deductions to be made to reflect the administrative costs of local authorities in implementing the regulations.
- (4) The regulations may provide for interest to be charged in the event of late payment.
- (5) The regulations may provide for assumptions to be made in making a calculation, whether or not those assumptions are, or are likely to be, borne out by events.
- (6) The regulations may make provision about how and when payments are to be made including, in particular, provision for payments by instalment.

87 Provision of information to Secretary of State

Rent regulations may give the Secretary of State a power to require a local housing authority to provide information in connection with the regulations.

88 Interaction with other legislation and consequential amendments

- (1) The Secretary of State must use the power in section 24(5) of the Welfare Reform and Work Act 2016 to provide that section 23 of that Act does not apply to a high income tenant of social housing to whom rent regulations apply.
- (2) In section 24 of the Housing Act 1985 (rent), after subsection (5) insert—

“(5A) See also Chapter 3 of Part 4 of the Housing and Planning Act 2016 (rents for high income social tenants in England).”
- (3) In Part 2 of Schedule 4 to the Local Government and Housing Act 1989 (the keeping of the Housing Revenue Account: debits), after item 10 insert—

“Item 11: payments under section 86 of the Housing and Planning Act 2016

Any sums payable for the year to the Secretary of State under regulations made in reliance on section 86 of the Housing and Planning Act 2016 (rents for high income social tenants: payment by local authority of increased income to Secretary of State).”

Private registered providers: rent policies for high income tenants

89 Private providers: policies for high income social tenants

- (1) A private registered provider of social housing that has a policy about levels of rent for high income social tenants in England must publish that policy.
- (2) The policy must include provision for requesting reviews of, or appealing, decisions under the policy.

90 HMRC information for private registered providers

- (1) HMRC may disclose information for the purpose of enabling a private registered provider of social housing to apply any relevant policy about levels of rent for high income social tenants in England.
- (2) The information may only be disclosed to—
 - (a) the private registered provider of social housing,
 - (b) the Secretary of State for the purposes of passing the information to registered providers,
 - (c) a public body that has been given the function of passing information between HMRC and registered providers by regulations under subsection (3), or
 - (d) a body with which the Secretary of State has made arrangements for the passing of information between HMRC and registered providers.
- (3) The Secretary of State may by regulations—
 - (a) give a public body the function mentioned in subsection (2)(c), and
 - (b) make provision about the carrying out of that function.
- (4) The Secretary of State must obtain HMRC’s consent before making—
 - (a) arrangements under subsection (2)(d), or
 - (b) regulations under subsection (3).
- (5) Information disclosed under this section to the Secretary of State or to a body mentioned in subsection (2)(c) or (d) may be passed on to a registered provider for which it is intended.
- (6) Information disclosed under this section may not otherwise be further disclosed without authorisation from HMRC.
- (7) Where a person contravenes subsection (6) by disclosing any revenue and customs information relating to a person whose identity—
 - (a) is specified in the disclosure, or
 - (b) can be deduced from it,section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act.
- (8) In this section—

“HMRC” means the Commissioners for Her Majesty’s Revenue and Customs;

“relevant”, in relation to a private registered provider’s policy about levels of rent for high income social tenants in England, means a policy that—

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- (a) has been published as required by section 89, and
 - (b) complies with any requirements imposed under subsection (2) of that section;
- “revenue and customs information relating to a person” has the meaning given by section 19(2) of the Commissioners for Revenue and Customs Act 2005;
- “tenant” includes prospective tenant.

Interpretation

91 Interpretation of Chapter

In this Chapter—

- “high income” has the meaning given by regulations under section 81;
- “local housing authority” has the meaning given by section 1 of the Housing Act 1985;
- “rent” includes payments under a licence to occupy;
- “rent regulations” has the meaning given by section 80;
- “social housing” has the same meaning as in Part 2 of the Housing and Regeneration Act 2008 (see sections 68 and 72 of that Act);
- “tenancy” includes a licence to occupy;
- “tenant” includes a person who has a licence to occupy.