

Housing (Transitional Period) Amendment Regulation 2017

Explanatory notes for SL 2017 No. 85

made under the *Housing Act 2003*

General Outline

Short title

Housing (Transitional Period) Amendment Regulation 2017

Authorising law

Section 101 of the *Housing Act 2003*

Policy objectives and the reasons for them

The National Regulatory System for Community Housing (NRSCH) is a national system of registration, monitoring, and regulation of non-government community housing providers. The NRSCH was introduced in Queensland through amendments to the *Housing Act 2003* (Housing Act), to introduce a new part 4A which commenced on 1 January 2014.

The objective of the Housing (Transitional Period) Amendment Regulation 2017 is to amend the *Housing Regulation 2015* (Housing Regulation) to change the end of the transitional period prescribed in the Regulation for other 'accommodation providers', as described under the Housing Regulation from 30 June 2017 to 31 December 2018.

The Amendment Regulation also changes the date at which 'any other accommodation provider' stops being an 'exempt provider' under the Act and alters the definition of 'relevant entity' to include an additional provider.

End of Transition Period

Under Section 159 of the Housing Act, if a housing provider which was registered under the Act prior to 1 January 2014 does not apply for registration under the NRSCH before the application period ends, or applies but is refused registration, then the provider must transfer or otherwise dispose of its relevant assets before the transitional period ends. Where the NRSCH Registrar's decision to refuse the application is confirmed, the provider must transfer or otherwise dispose of its relevant assets six months after the

Registrar's decision is confirmed. Section 37 of the Housing Regulation prescribes the way an accommodation provider must transfer or otherwise dispose of a relevant asset.

The end of the transitional period is prescribed under Section 36 of the Housing Regulation for an accommodation provider that is listed in the definition of relevant entity in Schedule 2 of the Housing Regulation until 30 June 2019, or for an accommodation provider until 30 June 2017.

The proposed amendment to the Housing Regulation is to extend the transitional period for accommodation providers from 30 June 2017 to 31 December 2018.

While the majority of accommodation providers have achieved registration within the prescribed timeframe (i.e. by 30 June 2017), those yet to become registered or end their funding relationship with the Department of Housing and Public Works (the department) are primarily small providers or local councils funded to deliver services. These organisations are predominantly managed by volunteer boards and were historically funded to address the needs of small communities. They often represent groups with specialised housing needs such as people with disability and people in seniors' accommodation. Given the legacy of the contractual funding arrangements that have evolved over 30 years, managing the registration process for these providers is complex and administratively time-consuming. By extending the time providers have to register, the department will be able to effectively manage the administrative process to support providers to register where there is intention to do so, or negotiate divestment strategies where there is not.

For those providers proposing to end their funding relationship with the department, the department is exploring divestment strategies pursuant to section 37 of the Housing Regulation. Extension of the end of the transitional period is considered necessary to ensure that the interests of vulnerable groups who rely on these specialised organisations are not adversely affected, and that the policy intent of the NRSCH for services to be provided by capable, registered providers operating as part of a viable industry, is fully realised.

Exempt Provider

Under section 22 of the Housing Act, the chief executive may give funding to deliver a social housing service only to a registered provider or an exempt provider. Section 38(2) of the Housing Regulation prescribes all entities which were registered under the Housing Act on 31 December 2013 to be exempt providers, other than ineligible entities.

Entities are prescribed to be exempt providers under section 38 of the Housing Regulation until the earliest of the events or dates listed in section 38(3). Section 38(3)(h) provides that an entity that is prescribed to be an exempt provider other than a relevant entity continues to be an exempt provider until 30 June 2017 at the latest.

As the end of the transitional period under section 36 of the Housing Regulation is proposed to be extended for accommodation providers to 31 December 2018, the exempt provider period under section 38(3)(h) is also proposed to be extended to 31 December 2018. This is consistent with the department's intention that the chief executive give funding to an exempt provider only during the transitional period.

Relevant Entity

For the purposes of section 36(a) of the Housing Regulation, relevant entity means those entities set out under the definition of 'relevant entity' in Schedule 2 of the Regulation.

As part of the department's ongoing commitment to helping organisations build their capacity to achieve registration under the NRSCH, it is proposed that S.P.K. Housing Group Limited ABN 41 060 733 744 (SPK) be added as a relevant entity under Schedule 2. SPK was registered as a company in 1993, with a focus on housing for emerging communities, especially among refugees. To afford SPK the time and opportunity to build its capacity to seek registration under the NRSCH, this amendment includes SPK as a relevant entity.

As an accommodation provider that is listed in the definition of relevant entity in Schedule 2, SPK will have until 30 June 2019 to achieve registration

Achievement of policy objectives

The amendment regulation achieves these objectives by amending the *Housing Regulation 2015* to:

- Amend section 36(b) to extend the end of the transitional period for registration for an accommodation provider, that is not a relevant entity, from 30 June 2017 until 31 December 2018.
- Amend section 38(3)(h) to extend the period that an entity that is prescribed to be an exempt provider, other than a relevant entity, continues to be an exempt provider from 30 June 2017 until December 2018.
- Amend the Schedule 2 definition of 'relevant entity' to include S.P.K. Housing Group Limited (ABN 41 060 733 744) as a prescribed relevant entity.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the main objects of the *Housing Act 2003*, that is, to improve the access of Queenslanders to safe, secure, appropriate, and affordable housing; and to help build sustainable communities.

The amendment is required to allow more time for accommodation providers to obtain registration under the NRSCH and for the department to continue to manage exits from the system to achieve the best possible outcomes for tenants and the overall social housing system.

Benefits and costs of implementation

No additional costs will be incurred in the implementation of the Amendment Regulation.

Consistency with fundamental legislative principles

The amendment regulation is consistent with the fundamental legislative principles in the *Legislative Standards Act 1992*.

Consultation

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation was not consulted in relation to the regulatory proposal. The department applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category g – Regulatory Proposals that are of a machinery nature).