



ADVISORY
Industry Information

Ireland Update: Examining Recent Changes Impacting Approved Housing Bodies

August 2021

Section 8 of the Housing (Regulation of Approved Housing Bodies) Act 2019 (the “Act”) provided for the establishment of an Approved Housing Bodies Regulatory Authority (the “Regulatory Authority”) tasked with monitoring and overseeing the corporate governance and financial management of all voluntary and co-operative housing bodies when performing their functions, under the Act.

This Regulatory Authority was formally established on 1 February 2021 by the Minister for Housing, Local Government and Heritage, Darragh O’Brien TD.

The establishment of a regulatory framework in this sector represents a significant change in terms of the oversight that will now come into play for the 500 or so registered approved housing bodies (“AHB”) in Ireland.

Background

Given the political focus on housing over the last number of years, the term AHB has become quite familiar in the marketplace and is used to describe bodies that work with the State to produce and manage a large amount of the State’s supply of social housing.

Historically, AHBs operated under a voluntary code, but following commencement of the Act and the establishment of the Regulatory Authority, AHBs must now examine their structures and, in some instances, put protocols in place to ensure compliance with the new statutory regime.

In a way, the regulation brings the social housing regime in line with some other voluntary sectors – such as charities – where those running such organisations are answerable to a regulator and where there is a huge amount of importance placed on transparency and good governance.

Many AHBs will already be in compliance with the new rules; however, for those that are not in compliance, now is the time to get familiar with the new requirements and to take appropriate action.

The various powers and functions of the Regulatory Authority will be commenced on a phased basis throughout the remainder of 2021 and onward into 2022, with the core operational activities currently anticipated to commence in the early part of 2022.

What functions shall the Regulatory Authority perform?

The Regulator will:

- » establish and maintain a register of AHBs;
- » develop and publish a set of operational standards (the “Standards”) for AHBs, which will cover matters as varied as corporate governance, financial management and reporting, property and asset management and tenancy management;
- » develop programmes and techniques for facilitating compliance with the Standards;
- » monitor performance of AHBs against these Standards;



- » assess an AHB's compliance with the Standards;
- » carry out investigations; and
- » impose sanctions, up to and including the cancellation of the registration of AHBs.

When are the rules changing?

Section 37 (in Part 3 of the Act) took effect from 1 July 2021, so the Regulator has six months from this date to submit the draft Standards to the Minister for approval.

We understand that drafting has commenced and post publication, there will be a transitional period to allow the sector to devise a way to implement the Standards.

What should you do next?

It is expected that Section 34 of the Act, which is the trigger for the registration with the Regulatory Authority requirement, will be commenced in early 2022. Once that happens, all existing approved AHBs will be deemed to be registered (without taking any action) and therefore automatically subject to the relevant regulatory requirements and compliance obligations under the Act.

However, in order to remain an AHB, each organisation will be required to formally apply for registration within a specific timeframe with the Regulatory Authority in order to maintain this status.

The timeframe for registration varies depending on the number of dwellings under ownership/management.

Number of Dwellings	Timeframe to Register
300+	1 year
50-299	2 years
0-49	3 years

AHBs should also now familiarise themselves with the key requirements outlined within the Act. Understanding these requirements should be an essential objective for all AHBs during the remainder of 2021.

Investors with AHB tenants

A number of investors have acquired properties that are subject to leases with AHBs. The new regime should have no impact on the lease agreements. However, in the same way as the regulation within the sector will be a positive step in ensuring good governance, it is also a positive step for investors and those relying on AHBs for the provision of homes.

The greater regulation presented by the Act will ultimately mean that standards are set and maintained going forward. While there will be cost involved with implementation, it is hoped that ultimately, it will lead to greater longevity and productivity from the AHBs.

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