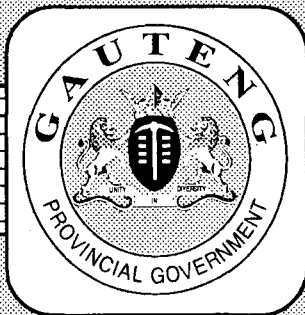


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Social Housing Registration  
Regulation  
p3-8 (E)

**THE PROVINCE OF  
GAUTENG**



**DIE PROVINSIE  
GAUTENG**

**Provincial Gazette Extraordinary  
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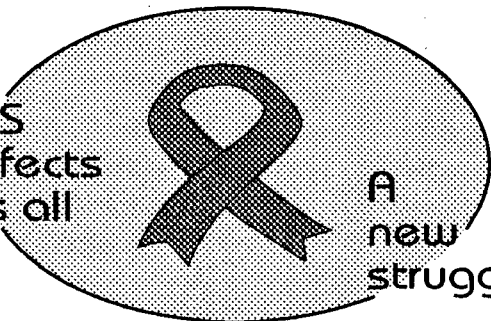
Vol. 7

PRETORIA, 28 DECEMBER 2001  
DESEMBER

No. 255

**We all have the power to prevent AIDS**

AIDS  
affects  
us all



A  
new  
struggle

Prevention is the cure

**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

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## GENERAL NOTICE

### NOTICE 7539 OF 2001

#### GAUTENG PROVINCE

#### DEPARTMENT OF HOUSING

GAUTENG HOUSING ACT, 1998 (ACT No. 6 OF 1998)

### REGISTRATION OF SOCIAL HOUSING INSTITUTIONS REGULATIONS, 2001

The Member of the Executive Council responsible for Housing has under section 25 of the Gauteng Housing Act, 1998 (Act No. 6 of 1986), made the regulations in the Schedule.

### SCHEDULE

#### *Definitions*

1. In these regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Gauteng Housing Act, 1998 (Act No. 6 of 1998), retains that meaning, and in addition—

“**Accounting officer**” means the head of department as contemplated in section 36 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“**beneficiary**” means any person who is a recipient of subsidies and resides in housing that is provided by an institution;

“**certificate**” means the certificates, as appearing in Schedule 2, 3 and 4 of these regulations;

“**governing body**” means the body responsible for the management of an institution;

“**institution**” means a housing co-operative or association or similar body whose primary objective is to acquire, develop and hold immovable residential property, with a view to enable qualifying beneficiaries to rent and/or purchase the residential properties contained in that immovable property;

“**institutional subsidy**” means the government housing subsidy provided to institutions, which allow qualifying beneficiaries to rent and/or purchase the residential properties that such institutions have acquired and developed, as detailed in Part Seven Volume A of the Implementation Manual dated November 1995 and issued by the National Department of Housing;

“**project**” means the immovable property managed by an institution;

“**resident**” means any person, including a beneficiary, who has a legal right to reside in the accommodation provided by an institution; and

“**social housing**” means a form of housing that offers a variety of tenure options other than individual, private ownership, which is developed through an institution, where the interests of beneficiaries are properly represented at a management level, and is subsidised through the institutional subsidy.

#### *Purpose of the regulations*

2. The purposes of these regulations are to—

- (a) protect the investment of the Government in institutions;
- (b) facilitate the growth and sustainability of institutions and promote housing delivery; and
- (c) regulate and promote professionalism among members of all institutions.

#### *Appointment and qualifications of registration officer of Social Housing Institutions*

3. (1) The MEC, after considering the qualification requirements contained in sub regulation (2)—

- (a) appoints a registration officer to execute the duties and functions outlined in these regulations, and other instructions which the officer may receive from the MEC from time to time; and
- (b) may appoint a deputy registration officer to assist the registration officer in the performance of his or her powers and duties or to act as registration officer when the registration officer is absent or otherwise occupied.

(2) The information officer and the deputy information officer must possess most of the following skills and knowledge—

- (a) the ability to interpret financial statements and determine the financial viability of institutions;
- (b) the ability to assess whether institutions comply with financial frameworks and requirements of providers of funding in partnership with the Province;
- (c) the ability to evaluate business plans;
- (d) an understanding of the constraints that may face institutions in providing social housing;
- (e) preferably have either a financial or legal background;
- (f) a sound grasp of the principles of property management;
- (g) computer literate and the ability to manage a database system;
- (h) sound office management skills;
- (i) sound verbal, written and visual communication skills;

- (j) a sound working knowledge of social housing in South Africa and an understanding of the principles forming the basis of social housing;
- (k) a sound working knowledge of applicable subsidy and funding schemes; and
- (l) the ability to monitor and evaluate institutions and advise the Department on the growth and sustainability of the sector and any other policy implications.

#### **Programme managers**

4. Programme managers of the Department may assist the registration officer with the administrative responsibilities relating to the exercise of duties and functions of the registration officer.

#### **Conditions of Service**

5. The MEC appoints the registration officer and deputy registration officer in terms of the Public Service Act, 1994.

#### **Accounting and reporting**

6. The registration officer must provide the accounting officer with information on the database and on activities of institutions, including a monthly report on—

- (a) all institutions that have lodged applications and the status of those applications; and
- (b) the operational status of registered institutions.

#### **Powers and duties of registration officer**

7. (1) The duties of the registration officer are to—
- (a) consider and evaluate all applications for registration received from institutions;
  - (b) register all institutions, which qualify for registration;
  - (c) maintain an information database for monitoring purposes on all institutions, which database shall include—
    - (i) the names and identity numbers of the directors, members, trustees or partners of institutions;
    - (ii) a list of all projects undertaken by institutions;
    - (iii) written complaints received from other funders or a local authority that relate to the financial viability or the governance of an institution; and
    - (iv) any other information deemed appropriate by the registration officer, to monitor registered institutions;
  - (d) provide institutions with advise or refer them for assistance to organisations established by government or the non-governmental sector for that purpose;
  - (e) provide non-registered institutions with advise, if necessary, on the registration procedures and refer organisations and individuals, which require assistance on establishing institutions to organisations, which have been set up for that purpose;
  - (f) provide advise and guidance, if possible, on business plans;
  - (g) provide advise and information, if possible, on the preparation of financial planning documentation to enable the institution to produce operational funding predictions, allowing detailed project appraisal;
  - (h) monitor and evaluate the performance of registered institutions, on an on going basis, in relation to the business plan of the institution;
  - (i) respond to and investigate complaints, lodged with the registration officer, that may threaten the financial viability or governance of registered institutions;
  - (j) advise the Department on the growth and sustainability of the sector and any other policy implications; and
  - (k) perform all other duties entrusted to the officer under these regulations.
- (2) The Registration Officer has the power to—
- (a) inspect the accounts and financial statements of a registered institution at any reasonable time;
  - (b) visit the premises of a registered institution at any reasonable time to gain access to any relevant documentation, records or information of the institution for the purpose of ensuring that the institution adheres to the provisions of these regulations and to generally accepted business practices;
  - (c) convene a meeting, at a mutually agreed time, with the stakeholders of any housing project funded by the institutional subsidy to discuss matters pertaining to the activities and performance of a registered institution;
  - (d) de-register or suspend an institution if that institution fails to operate in accordance with these regulations, after the procedure outlined in regulation 13 has been adhered to;
  - (e) prescribe remedial action that an institution, which is under performing, must follow in order to protect the government's subsidy invested in the registered institution and the protect beneficiaries of the institution;
  - (f) order the suspension of certain operations in relation to non-housing activities conducted by an institution that may adversely affect the running of the institution and the governments' investment in the institution after affording the institution concerned a reasonable opportunity to make representations why such operations should not be so ordered.

#### **Procedure and requirements for registration as an institution**

8. (1) An institution requiring registration must submit an application to the registration officer in the form appearing in Schedule 1, accompanied by a motivation for the application containing the following information:

- (a) proof that the institution is registered as one of the following legal entities—
  - (i) a company incorporated in terms of the Companies Act, 1973 (Act No. 61 of 1973);
  - (ii) a company incorporated in terms of the Share Block Control Act, 1980 (Act No. 59 of 1980);
  - (iii) a co-operative incorporated in terms of the Co-operatives Act, 1981 (Act No. 91 of 1981); or
  - (iv) an association formed in terms of any legislation based on the Communal Property Associations Act, 1996 (Act No. 28 of 1996);
- (b) a human resource plan, which demonstrates that the institution has the financial capacity and the necessary operational capacity to manage a project or the steps that an institution will take to acquire the necessary capacity for the following:
  - (i) at the project preparation stage, to market the project to obtain tenants, make subsidy and other funding applications, source loan finance and enter into loan agreements;
  - (ii) at the developmental stage, to appoint and manage project managers or contractors to undertake the physical construction or upgrading of the new accommodation;
  - (iii) at the maintenance stage, to efficiently and effectively manage the social housing stock, including rental collections and set in place acceptable risk management strategies; and
  - (iv) to manage the financial affairs of the institution, and if applicable, the financial affairs of the institutions under its management.
- (c) a financial plan that specifies the financial resources required to run the institution, including—
  - (i) proof of adequate financial reserves for the sustainable running of the institution and management of risks; or
  - (ii) steps to procure the necessary financial resources, if the institution does not have sufficient financial resources; and
  - (iii) funding strategies for the short, medium and long term.
- (d) a management plan, which includes—
  - (i) mechanisms to ensure the participation of residents of the project in decision-making regarding issues that affect them;
  - (ii) plans for the relevant training of its members, residents of the housing project and the management of the institution; and
  - (iii) recruitment and placement policy for the institution;
- (e) a risk management plan, which includes the risk attached to the following:
  - (i) financial risk;
  - (ii) political risk;
  - (iii) market assessment; and
  - (iv) assumptions made by the institution.

**Registration of an institution**

- 9. (1) The registration officer registers an institution if the registration officer is satisfied that the institution:
  - (a) meets the requirements prescribed by these regulations; and
  - (b) has appropriate financial, technical, and management capacity for the specific business conducted by an institution, and in relation to the number of proposed projects, number of residents to be accommodated and the complexity of the scheme.
- (2) The registration officer may, when registering institutions, distinguish between—
  - (a) tertiary institutions, which act as promoters or capacitors of social housing and assist other institutions by providing support and capacity;
  - (b) secondary institutions, which have sufficient internal capacity to function as an institution; and
  - (c) primary institutions, which in the normal course of their business, need to enter into agreements or partnerships with registered primary or secondary institutions, to acquire capacity to carry out their core business.
- (3) The registration officer must issue all registered institutions with a certificate, as proof of registration, in the prescribed form appearing in Schedules 2, 3 or 4.
- (4) No institution is eligible to apply for an institutional subsidy, unless that institution is a registered institution.

**Appeal procedures**

- 10. (1) If the registration officer rejects an application, the registration officer notifies the institution concerned in writing of the reasons thereof.
- (2) An aggrieved institution may lodge an appeal with the MEC in the form of written representations, within 30 days of being notified of the rejection of the application by the registration officer.
- (3) The MEC, after consideration of the appeal contemplated in sub regulation (2), within 60 days formulates an opinion as to whether the institution has satisfied the requirements of registration or not, and forthwith notifies that institution of the decision.

**Responsibilities of registered institutions**

11. (1) All registered institutions must submit an annual report to the registration officer, which contains—
  - (a) the balance sheet and consolidated income and expenditure statements of the institution;
  - (b) a report on any incident that may threaten the viability of the institution and any steps taken to remedy an identified problem, including—
    - (i) non-payment by residents and where applicable rental arrears which exceed two months;
    - (ii) rental boycotts;
    - (iii) landlord and tenant/resident disputes;
    - (iv) budget shortfalls;
    - (v) vacancy or non-disposal of units;
    - (vi) breakdown in relationships with end-users; and
    - (vii) financial misconduct.
- (2) All registered institutions must—
  - (a) provide any other information that the registration officer may require; and
  - (b) comply with the provisions of these regulations.

**Code of sound practice**

12. (1) A code of sound practice is prescribed as set out in sub regulation (3).
- (2) All registered institutions are required to adhere to the code of sound practice to ensure that the institutions are soundly managed by competent governing bodies and management teams that are responsive to an environment of change and risk, in pursuance of the missions and objectives of the individual institutions.
- (3) The governing body of an institution must ensure that—
  - (a) the staff and management of the institution conduct themselves in a manner, which does not compromise the interests of their clients;
  - (b) their clients are treated in a fair and acceptable manner;
  - (c) the operational management and financial performance of the institution indicates progress towards set targets;
  - (d) regular and sound accounting procedures are followed for the institution;
  - (e) they share the responsibility for decision-making and ensure that each member acts only in the interest of the institution and not on behalf of any constituency or interest group;
  - (f) they collectively possess the qualities and skills required to take decisions and monitor the performance of the institution;
  - (g) the private or personal interest of members of the governing body does not influence their decisions, and that they do not use their position for personal gain;
  - (h) they adopt and make known to the residents their policies through a thorough consultation process, with regard to issues which impact directly on the lives of residents;
  - (i) they make information about their performance available to the public in addition to the prescribed reports on their finances;
  - (j) clients of the project are fully informed of all the requirements and implications of—
    - (i) the rental payment conditions and arrears procedures;
    - (ii) the interest rate and other charges;
    - (iii) the type of tenure offered;
    - (iv) the responsibilities and obligations of each party;
    - (v) the term of the lease or other agreements;
    - (vi) eviction procedures;
    - (vii) the penalties and conditions governing exit from loan agreements;
    - (viii) the payment of any money to the resident upon vacating the unit; and
    - (ix) any other request made by the registration officer.
  - (k) they have sound risk management mechanisms and policies for monitoring risk in place, to guard against all risk that may effect the institution;
  - (l) a non-discriminatory and public set of objective criteria are used to assess clients who want to reside in the accommodation provided by the institution;
  - (m) agreements are simple and are fully explained to the clients, preferably in a language of their choice, but always in a language they fully understand;
  - (n) they provide clear procedures and rules governing the termination of residence in the project;
  - (o) they have house rules, which all parties agree to, which are integral to the lease or any other tenure agreement that the resident is required to sign in order to reside in the institution; and
  - (p) they disclose to clients and the registration officer any departure from the code of sound practice and reasons for doing so.

**De-registration and suspension of registration**

13. (1) The registration officer must notify an institution in writing of the intention of the officer to suspend or de-register an institution, and stipulate any action that the institution must take to rectify any contravention of any provisions, conditions or obligations of these regulations.
- (2) The institution must comply with the notice referred to in sub regulation (1) within 30 days of receipt of such notice or by such time as agreed between the registration officer and the institution.
- (3) If an institution fails to comply with a notice referred to in sub regulation (1) within the specified time, the registration officer may—
  - (a) suspend the registration of an institution for a period that the registration officer deems necessary to investigate the matter or until the suspended institution has complied with the relevant provisions, conditions or obligations in terms of the notice;
  - (b) suspend certain activities of the institution; or
  - (c) de-register the institution.

**De-registered and suspended institutions**

14. The removal or suspension of a registered institution by the registration officer has the following implications:
  - (a) a de-registered or suspended institution shall not be eligible to access institutional subsidies;
  - (b) a de-registered or suspended institution will not receive any outstanding payments from institutional subsidies, until re-registered or suspension lifted; and
  - (c) a de-registered institution may not apply for re-registration within a period of six months from the date of de-registration.

**Service of notice**

15. Any notice or document required to be sent in terms of these regulations may be served by hand or sent by telefacsimile or registered mail addressed to the governing body of any institution, and knowledge of the contents shall be deemed to exist where—
  - (a) the notice of document was delivered by hand, when it was so delivered;
  - (b) the notice was sent by telefacsimile, upon the recordal thereof by the sending station; or
  - (c) the notice or document was posted, 21 days after it was sent, in the absence of evidence to the contrary that the institution to whom it was addressed, acting in good faith, through absence, accident, illness or other cause beyond the control of the institution, did not receive the notice or document until a later date.

**Short Title**

16. These regulations are called the Registration of Social Housing Institutions Regulations, 2001.

**SCHEDULE 1**

FOR OFFICIAL USE:

REFERENCE NO: .....

**A: PARTICULARS OF THE SOCIAL HOUSING INSTITUTION**

NAME	.....
TYPE OF ORGANISATION	.....
LOCAL AUTHORITY	.....
PHYSICAL/TRADING ADDRESS	.....
POSTAL/REGISTERED ADDRESS	.....
TELEPHONE NO.	.....
FAX NO.	.....
REGISTRATION NO. & DATE OF REGISTRATION	.....
NAME OF CHIEF EXECUTIVE OFFICER	.....
BOARD MEMBERS	1. ....
	2. ....
	3. ....
	4. ....
	5. ....
	6. ....
	7. ....
	8. ....

BOARD MEMBERS 9. ....  
10. ....

**B: DETAILS OF IMMOVABLE PROPERTY**

NUMBER OF UNITS OWNED

NUMBER OF UNITS MANAGED

NUMBER OF UNITS IN DEVELOPMENT

NUMBER OF STAFF

**C: CHECKLIST**

BUSINESS PLAN

LEASE AGREEMENTS

LEGAL ENTITY DOCUMENTS

SIGNED AT: ..... ON THIS ..... DAY OF ..... 20.....

SIGNATURE: ..... NAME: .....

WITNESS 1: .....

WITNESS 2: .....

**SCHEDULE 2**

....., is hereby certified as a Primary Registered Social Housing Institution in terms of the Registration of Social Housing Institutions Regulations promulgated under section 25 of the Gauteng Housing Act, 1998 (Act No. 6 of 1998).

REGISTRATION OFFICER OF  
SOCIAL HOUSING INSTITUTIONS

DATE: .....

**SCHEDULE 3**

....., is hereby certified as a Secondary Registered Social Housing Institution in terms of the Registration of Social Housing Institutions Regulations promulgated under section 25 of the Gauteng Housing Act, 1998 (Act No. 6 of 1998).

REGISTRATION OFFICER OF  
SOCIAL HOUSING INSTITUTIONS

DATE: .....

**SCHEDULE 4**

....., is hereby certified as a Tertiary Social Housing Institution in terms of the Registration of Social Housing Institutions Regulations promulgated under section 25 of the Gauteng Housing Act, 1998 (Act No. 6 of 1998).

REGISTRATION OFFICER OF  
SOCIAL HOUSING INSTITUTIONS

DATE: .....