



An Roinn Tithíochta,
Pleanála agus Rialtais Áitiúil
Department of Housing,
Planning and Local Government

Approved Housing Bodies - Move to Statutory Regulation

AHB Policy & Regulation
Department of Housing, Planning and Local Government
ICSH Webinar - 24 September 2020

Overview of Presentation

- ▶ Background
- ▶ Overview of the AHB Sector
- ▶ Housing (Regulation of Approved Housing Bodies) Act 2019
- ▶ The Approved Housing Bodies Regulatory Authority
- ▶ Functions of the AHB Regulatory Authority
- ▶ Review of the current AHB Register
- ▶ Planning for the Future, including raising awareness on a local and/ or regional basis

Background - AHB Regulation

- ▶ July 2013: the interim Regulatory Committee (iRC) was established to oversee the implementation of a Voluntary Regulation Code
- ▶ 2014: The Regulation Office was established to support the iRC
- ▶ September 2015: the General Scheme for a Housing (Regulation of Approved Housing Bodies) Bill was approved by Cabinet
- ▶ April 2016: Circular 15/2016 - funding eligibility is aligned to those AHBs signed up to and demonstrating compliance with the Code
- ▶ December 2019: Housing (Regulation of Approved Housing Bodies) Act 2019 was signed in to law

Objectives of the Housing (Regulation of Approved Housing Bodies) Act 2019

- ▶ To establish a Regulator to oversee the effective governance, financial management and performance of the sector
- ▶ To safeguard public and private investment in the social housing provision sector, to ensure that the assets built through investments in the sector are managed sustainably
- ▶ To provides further assurances to stakeholders that the sector is well regulated

The AHB Regulatory Authority

- ▶ A board of between 5-11 members, supported by a CEO and staff
- ▶ Board = Regulator / in situ on Establishment Day
- ▶ CEO / CE Designate recruitment underway (PAS)
- ▶ CE Designate to be appointed first - will become CEO on Establishment Day

- ▶ Establishment Day: **anticipated 1st January 2021**
- ▶ Statutory Regulation Framework commences: **anticipated 1st January 2022**
- ▶ The legislation will be commenced on a staggered basis to allow for preparatory work to be carried out before Establishment Day.

Functions of the AHB Regulatory Authority

- ▶ Establish and maintain a register of AHBs;
- ▶ Register persons as AHBs;
- ▶ Prepare draft standards for approval by the Minister;
- ▶ Monitor and assess compliance, in particular the approved standards;
- ▶ **Carry out investigations;**
- ▶ Protect tenants (in certain circumstances);
- ▶ Cancel registration of AHBs;
- ▶ Encourage and facilitate better governance, administration and management;
- ▶ Collect information on AHBs; and
- ▶ Publish information concerning AHBs, and promote awareness and understanding of AHBs and their regulation among the wider public.

Registration of AHBs

- ▶ Eligibility criteria to register as an AHB will be very similar to what it is now:
 - ▶ A company with at least 5 directors; a registered society; a friendly society; or a charitable trust with at least 5 trustees;
 - ▶ Provision or management of dwellings for the alleviation of housing need / not-for-profit
- ▶ Existing AHBs approved under section 6 of the Housing (Miscellaneous Provisions) Act 1992 are deemed to be registered.
 - ▶ Must apply to be retained on the register within periods of 1, 2 and 3 years, depending on the scale of their activities.
- ▶ Deemed AHBs must comply with the provisions of the Act.

AHB Register

- ▶ The Regulator shall enter details in a public register
 - ▶ Name and principal place of business in the State
 - ▶ Registration number and date
 - ▶ The activity to which the registration relates
 - ▶ Names of directors/members/trustees
 - ▶ Compliance plan plus summary details
 - ▶ Non-compliance/Non-implementation plus details of approved standard
 - ▶ On cancellation - remove details and enter reasons for cancellation
- ▶ The register will be made available to view online and also in the office of the Regulator - **anticipated to go live 1 January 2022.**

Administrative cooperation on regulatory matters

- ▶ To facilitate administrative cooperation and avoid duplication - the Regulator may enter into Memorandum of Understandings with
 - ▶ The Charities Regulatory Authority
 - ▶ The Director of Corporate Enforcement
 - ▶ The Registrar of Companies
 - ▶ The Registrar of Friendly Societies
 - ▶ The Residential Tenancies Board
 - ▶ The Health Information and Quality Authority
 - ▶ Any other body relating to the regulation of activities or persons - prescribed by the Minister

Standards

▶ Regulator will prepare standards relating to:

- Governance
- Financial management and financial reporting
- Property and asset management
- Tenancy management

▶ **Process**

- i. Regulator drafts Standards
- ii. Publish Standards
- iii. 28 days for consultation
- iv. Consider representations received
- v. Submit to Minister

Compliance

- ▶ The standards will be proportionate.
- ▶ Regulator will carry out assessments for the purposes of monitoring compliance with the approved standards
- ▶ Compliance plans (where Regulator finds an AHB is failing to comply with a standard)
- ▶ Notice of non-compliance
- ▶ Notice of non-implementation
- ▶ Standards can be reviewed from time to time.

Investigations

- ▶ The Regulator may appoint inspector(s) to investigate the affairs of an AHB where the Regulator considers it necessary to do so for the purposes of the performance of any of its functions.
- ▶ Inspectors will be able to -
 - ▶ Enter premises at reasonable times to search for records relating to the affairs of an AHB;
 - ▶ Inspect, examine and take copies of records;
 - ▶ Require owners of a premises or their employees to assist in examining records;
 - ▶ Examine bank accounts of AHBs;
 - ▶ Where an offence under the Act is suspected, remove records;
 - ▶ Where an offence under the Act is suspected, require that records are maintained for such period as considered necessary;
 - ▶ Require a person who has records or access to records to give such information as may be reasonably required to assist an investigation.
- ▶ Inspectors will prepare and submit to the Regulator an investigation report.

Interventions - Cancellation of Registration

- ▶ An AHB may request cancellation of their registration
- ▶ The Regulator may cancel a registration of an AHB on specified grounds
 - ▶ In both instances the relevant Housing Authorities must be informed and may make representations
- ▶ Where an AHB requests to cancel its registration; it must give the Regulator such information as the Regulator requires:
 - ▶ how it proposes to fulfil its contractual arrangements with a housing authority
 - ▶ any proposals relating to dwellings provided or managed
 - ▶ The Regulator shall consult any housing authority in whose area the AHB is providing or managing dwellings.

Cancellations

- ▶ The Regulator can cancel a registration on the following grounds - that the AHB:
 - ▶ has been convicted of an offence under the Act or any other indictable offence;
 - ▶ has failed or is failing to comply with any provisions under the Act;
 - ▶ no longer satisfies the eligibility criteria for registration as an AHB, or
 - ▶ is deemed to be an AHB under section 34(9) and has been deregistered under the provisions of that section.
- ▶ Representations and appeals allowed
- ▶ If the Regulator considers it necessary for the protection of tenants of dwellings the Regulator will, by notice and with consent, require the person to transfer such dwellings to another AHB identified by the Regulator or to a Housing Authority if the Regulator considers it appropriate.
- ▶ If the AHB or any third party (other than the tenants) who has any right or interest in the dwellings objects to the proposed transfer the Regulator may apply to the High Court for an order.

Interventions - High Court

- ▶ The Regulator has the power to seek a High Court Order in certain circumstances
- ▶ The Court may order:
 - ▶ Removal or suspension of any director or officer or employee of the AHB;
 - ▶ Appointment of other people to be a director or officer of the AHB in addition to or instead of, any existing director or officer;
 - ▶ Vesting of any or all of the property of the AHB with another AHB identified by the Regulator or another appropriate person;
 - ▶ Prohibiting the removal or sale of the property of the AHB without the Regulator's consent;
 - ▶ A debtor not to pay a debt to the AHB for a specified period; or
 - ▶ The restriction or prohibition of an AHB to enter any agreements.

Offences

- ▶ There are a range of offences under the Act. These are:
 - ▶ Providing false information, either knowingly or recklessly, to the Regulator when applying to registered;
 - ▶ Purporting to be an AHB if not registered;
 - ▶ Providing false information to the Regulator in the course of a standards assessment;
 - ▶ Purporting to act as an inspector without being properly appointed;
 - ▶ Withholding, destroying records or refusing to provide information to an inspector undertaking an investigation;
 - ▶ Failing to comply with a requirement of an inspector or hindering an inspector undertaking an investigation;
 - ▶ Disclosing information obtained under an investigation without the consent of the AHB unless to a competent authority;
 - ▶ Failure by an AHB to inform the Regulator if it is being taken off the Charities register, is being wound up or entering examinership;

Appeals

- ▶ An AHB can submit appeals to an Appeals Panel where the Regulator exercises its powers in relation to registration, compliance plans or cancellation.
- ▶ The Minister shall establish an appeals panel to determine appeals under the Act.
- ▶ An Appeals Board will hear an appeal and shall be independent in the performance of its duties.
- ▶ Any party to an appeal can appeal the decision to the High Court on a point of law within 3 months.

Review of the current AHB Register

- ▶ There are currently 555 AHBs registered with the Department.
- ▶ Under the 2019 Act, existing AHBs approved under Section 6 of the Housing (Miscellaneous Provisions) Act 1992, will be deemed to be registered and statutory regulated, but will have to apply to be retained on the Register within periods of 1, 2 and 3 years of commencement of the relevant section, depending on the scale of their activities.
- ▶ Deemed AHBs must comply with the provisions of the Act.
- ▶ In advance of the move to a statutory regulatory framework, the Department is conducting a review of its Register.
- ▶ As part of the register review we are seeking to highlight the necessity of AHB engagement with the Department, prior to the implementation of the legislation and to raise awareness of the impact of statutory regulation for AHBs

Review of the current AHB Register - cont.

- ▶ In March 2020, the Department wrote to all AHBs currently registered advising them of the move to a statutory regulatory framework.
- ▶ In July 2020, a questionnaire issued by registered post to those AHBs who have not had any recent engagement with the Department to determine their current status and activities.
- ▶ The response rate to this communication has been positive to date, with a cohort of AHBs opting to remain on the register in addition to those bodies that are now requesting to rescind their status.
- ▶ A rescinding of approved status protocol and checklist has been developed to ensure that AHBs have fulfilled their funding, constitutional, regulatory and statutory obligations and this is available on the Department's website.
- ▶ <https://www.housing.gov.ie/housing/social-housing/voluntary-and-cooperative-housing/approved-housing-bodies-ahbs>
- ▶ The 2019 Act allows for a body to apply for AHB status should the need arise in the future.

Review of the current AHB Register - cont.

- ▶ Further correspondence will issue to those AHBs that have not engaged with the Department on foot of our recent communications.
- ▶ If you are a board member, employee or volunteer of an Approved Housing Body please ensure your organisation has been contacted and has provided all requested information to the Department.
- ▶ Information received during the review process may be cross checked with data held by the Department, relevant Local Authorities and other relevant agencies under the aegis of the Department, or other public bodies, in certain circumstances where this is provided for by law.
- ▶ If your body has any queries or needs further information in relation to the register please contact ahb@housing.gov.ie

Planning for the Future - Communication

- ▶ The Department will also be raising awareness of the statutory regulation, review of the Register and planning for the future via a national print and social media campaign commencing in the coming weeks
- ▶ Another critical element of this work will be raising awareness through engagement at local and regional levels
- ▶ For those AHBs who are considering their future, there are a number of different collaborative options, such as merging, strategic partnerships and transferring stock to another like-minded AHB, that can be considered - AHBs engagement with the relevant Local Authority is critical
- ▶ The Regulation Office and the Irish Council for Social Housing (ICSH) can also guide AHBs through appropriate processes available to them

For further information, go to:

- <https://www.housing.gov.ie/housing/social-housing/voluntary-and-cooperative-housing/approved-housing-bodies-ahbs>
- <https://www.housing.gov.ie/housing/social-housing/voluntary-and-cooperative-housing/regulation-approved-housing-bodies-ahbs>

or contact: ahb@housing.gov.ie

Thank You