

Real Estate  
Case Law Update  
Rosling King LLP



The Government have issued new regulations relating to tenants' associations called The Tenants' Associations (Provisions Relating to Recognition and Provision of Information) (England) Regulations 2018 ("the Regulations"). These apply to England only and are due to come into force on 1 November 2018.

**What is a Tenants' Association?**

A recognised Tenants' Association is one where the members have come together to represent their common interests. Once formally recognised the Association can act on the tenants' behalf regarding a number of issues, including service charge issues.

An Association is formally recognised either by notice in writing from the landlord to the secretary of the Association, or by application to a First-tier Tribunal (Property Chamber) ("FTT"). Statutory provision within the Landlord and Tenant Act 1985 enables the Secretary of State to issue regulations concerning the issue of a certificate of recognition by the FTT.

**What do the new Regulations state?**

Paragraph 3 of the Regulations provides the matters to which the FTT must give regard to when issuing a certificate of recognition. These include, inter alia, the composition of the membership of the tenants' association, the tenants' association's rules regarding decision making, the extent to which the tenants' association is independent of the landlord of the dwellings to which the association relates and the extent to which the association operates in an open and transparent way.

Paragraph 4 of the Regulations sets out the circumstances in which a certificate must not be given by the FTT. These include the circumstances where the tenants' association represent less than 50% of the qualifying tenants of the dwellings. In addition the list states the FTT must not give a certificate to a tenants' association if the FTT is not satisfied that the constitution and rules of the tenants' association are fair and democratic.

The FTT are also granted the power to cancel a certificate of recognition. Paragraph 5 of the Regulations details the matters which must be considered when the FTT are cancelling a certificate, for example whether the certificate was obtained by deception or fraud or whether there are any irregularities in the tenants' association's voting process, decision making, implementing of decisions or recording of decisions.

Paragraphs 6 to 10 of the Regulations allow the relevant tenants' association to request information on other tenants from the landlord. Should any requests be received by a landlord (in line with paragraphs 6-10 then it is important that the landlord deals with these requests within the time frame set out.



October 2018  
Page 3

A link to the Regulation can be found below:

<http://www.legislation.gov.uk/uksi/2018/1043/introduction/made>

It is important to fully understand the obligations that Regulations place on landlords.

For further information, please contact Ann Ebberson or the Partner with whom you usually deal.