

SCHEDULE

PART 2

MEASURES RELATING TO HOUSES IN MULTIPLE OCCUPATION UNDER PART 11 OF THE HOUSING ACT 1985

Interpretation of Part

1.—(1) In this Part—

- (a) “relevant converted block of flats” means a building or a part of a building which is—
 - (i) a converted block of flats to which section 257 of the 2004 Act applies; and
 - (ii) a house in multiple occupation for the purposes of Part 11 of the 1985 Act;
- (b) “prescribed HMO” means a HMO(1) that falls within the description prescribed by the Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006(2); and
- (c) “relevant scheme” means a registration scheme made under section 346 of the 1985 Act containing any of the control provisions or special control provisions described in section 347, 348, 348A, 348B, 348C, 348D, 348E or 348F of that Act.

(2) The repeal of sections 345, 398, 399 and 400 of the 1985 Act (which give meanings of expressions used in Part 11 of the 1985 Act) shall not have effect in so far as those sections are relevant to the construction of any provision of this Part which refers to Part 11 of that Act or any provision of that Part 11.

Registration Schemes

2.—(1) Subject to sub-paragraph (2), during the period beginning on the first commencement date and ending on the date when regulations made by the Secretary of State under section 61(5) of the 2004 Act come into force, the repeal of sections 346, 346A, 346B, 347, 348, 348A to 348G, 350, 351 and 395 to 397 of the 1985 Act shall not have effect in relation to any registration scheme which—

- (a) conforms to a model scheme prepared by the Secretary of State under section 346B of the 1985 Act; or
- (b) is confirmed by the Secretary of State before the first commencement date, in so far as such scheme applies to a relevant converted block of flats.

(2) No new registration scheme may be made under section 346(1) on or after the first commencement date.

(3) Notwithstanding the repeal of sections 346 and 347 of the 1985 Act, a local housing authority may use the information contained in any register it has compiled and maintained under section 346—

- (a) for any purpose connected with the exercise of any of the authority’s functions under Parts 1 to 4 of the 2004 Act in relation to HMOs; or
- (b) for the purposes of investigating whether any offence has been committed under any of those Parts or under Part 11 of the 1985 Act in relation to HMOs.

(1) For the meaning of HMO see section 77 of the 2004 Act.

(2) S.I.No.2006/371.

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Areas deemed to be designated under section 56 of the 2004 Act

3.—(1) This sub-paragraph applies to any area for which a local housing authority have made a relevant scheme.

(2) On the first commencement date a local housing authority shall be deemed to have designated, under section 56(1) of the 2004 Act, each area to which sub-paragraph (1) applies as subject to additional licensing in relation to the HMOs registered under such a scheme.

(3) A designation deemed to have been made under sub-paragraph (2) shall come into force on the first commencement date.

(4) The requirements of sections 56(2) to (6), 57, 58 and 59(1) and (2) of the 2004 Act shall not apply in relation to designations that are deemed to have been made under sub-paragraph (2).

(5) Sub-paragraphs (6), (7) and (8) apply to a designation deemed to have been made under sub-paragraph (2).

(6) Within the period of three months beginning on the first commencement date the local housing authority shall publish a notice stating which areas in its district are designated areas as a result of being deemed to be designated areas under sub-paragraph (2) in the manner described in sub-paragraph (7).

(7) The notice shall—

- (a) be published in accordance with paragraphs (a), (b) and (c) of regulation 2 of the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006⁽³⁾;
- (b) be sent to the organisations referred to in paragraphs (3)(b) and (c) of those regulations; and
- (c) contain the information described in paragraph (4) of those regulations.

(8) Section 60 of the 2004 Act (duration, review and revocation of designation) shall apply to a designation deemed to have been made under subsection (2) and, for the purposes of subsection (2) of that section, the local housing authority shall be deemed to have specified 6th April 2009 as the time at which that designation ceases to have effect.

HMOs registered under certain relevant schemes: transitional arrangements relating to introduction of licensing

4.—(1) Subject to sub-paragraph (2), this paragraph applies to an HMO which immediately before the first commencement date is registered under a relevant scheme and is either—

- (a) a prescribed HMO; or
- (b) situated within an area in respect of which a designation is deemed to have been made under paragraph 3(2).

(2) This paragraph does not apply to an HMO which is a converted block of flats to which section 257 of the 2004 Act applies.

(3) A local housing authority shall be deemed to have granted a licence in respect of a HMO to which this paragraph applies to any person who, before the first commencement date, was recorded on the register authorised by the relevant scheme as the person managing the HMO.

(4) Subject to the following sub-paragraphs, a licence deemed to have been granted under sub-paragraph (3) shall—

- (a) be treated for all purposes of the 2004 Act as a licence under Part 2 of that Act;
- (b) be deemed to specify in it the first commencement date as the date the licence comes into force;

(3) S.I. No. 2006/373.

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- (c) unless previously terminated by section 68(7) or revoked under section 70 of the 2004 Act, continue in force until the date that the HMO's registration under the relevant scheme would have expired⁽⁴⁾; and
 - (d) be deemed to have been granted on the same conditions as those attached to the registration under the relevant scheme.
- (5) The conditions on which such a licence are deemed to have been granted do not include any conditions attaching to a HMO's registration under a relevant scheme which relates to—
- (a) a repair notice served under sections 189 or 190 of the 1985 Act;
 - (b) a notice served under section 352 of that Act (power to require execution of works to render premises fit for number of occupants); or
 - (c) an occupancy direction made under section 348D of that Act which could not be imposed as a condition under section 67(2) of the 2004 Act.
- (6) Within the period of three months beginning on the first commencement date the local housing authority shall—
- (a) send to the person to whom the licence is deemed to have been granted under sub-paragraph (3) ("the licence holder") particulars of the licence including—
 - (i) the conditions of the licence; and
 - (ii) the date of expiry of the licence; and
 - (b) if the licence expires less than 6 months after the first commencement date, send to the licence holder a notice informing him of the need to apply for a new licence on the expiry of the licence.
- (7) Schedule 4 (licences under Parts 2 and 3: mandatory conditions) and Part 1 of Schedule 5 (licences under Parts 2 and 3: procedure and appeals) to the 2004 Act shall not apply in relation to a licence deemed to have been granted under sub-paragraph (3).
- (8) Registration of an HMO under a relevant scheme in respect of which a licence is deemed to have been granted under sub-paragraph (3) shall cease to have effect on the first commencement date.
- (9) The licence holder shall not be charged for any costs incurred by the local housing authority taking any action under this paragraph.

Applications for HMO registration outstanding on first commencement date: transitional arrangements

- 5.—(1) This paragraph applies to an application for registration under a relevant scheme of a prescribed HMO or a HMO which is situated within an area in respect of which a designation is deemed to have been made under paragraph 3(2)—
- (a) which has been made to a local housing authority before the first commencement date and not been withdrawn; and
 - (b) on which that authority has not made a decision before that date.
- (2) The authority must reach its decision on the application as it would have done if Part 11 of the 1985 Act had not been repealed.
- (3) Where the authority decides that the HMO satisfies the conditions for registration under a relevant scheme, it shall not register it but must instead grant a licence to the person specified in the application as the person managing the HMO—
- (a) for a period of five years beginning on the first commencement date; and

(4) By section 346A(2)(a) of the 1985 Act registration under a scheme made under section 346 is for a period of five year from the date of registration.

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- (b) subject to the same conditions (other than any condition of a description mentioned in paragraph 4(5)(a), (b) or (c)) that it would have imposed if it had registered the HMO under the relevant scheme.
- (4) Where the authority decides that the HMO does not satisfy the conditions for registration under the scheme, it must—
 - (a) inform the applicant of the need to apply for a licence under section 63 of the 2004 Act; and
 - (b) where the authority provides applicants for a licence with a form for making such an application, supply him with a copy of the form.
- (5) The licence holder shall not be charged for any costs incurred by the local housing authority taking any action under this paragraph.
- (6) Where an applicant to whom subsection (4) applies has paid a fee for his application for registration under a relevant scheme, he shall not be required to pay a fee for his application for a licence under section 63 of the 2004 Act.

Fitness of a house in multiple occupation for the number of occupants

- 6.—(1) During the period beginning on the first commencement date and ending on the date when regulations made by the Secretary of State under section 61(5) of the 2004 Act come into force, the repeal of sections 352, 352A or 353, shall not have effect in relation to a HMO which is a relevant converted block of flats.
- (2) During the period beginning on the first commencement date and ending on 5th April 2007—
 - (a) the repeal of sections 352, 352A and 353 of, and Schedule 10 to, the 1985 Act shall not have effect in relation to any notice served under section 352(1) of that Act before the first commencement date; and
 - (b) the repeal of sections 354, 355, 356, 395, 396 or 397 of the 1985 Act shall not have effect in relation to the commission of any offence committed before the first commencement date under—
 - (i) subsection (2) of section or 355 of that Act; or
 - (ii) subsection (2) of section 356 of that Act.
 - (3) In relation to an appeal brought under subsection (2) of section 357 of the 1985 Act before the first commencement date a decision of a court to vary, or not to revoke, a direction under section 354 of that Act shall not have effect.

Overcrowding notices

- 7.—(1) A notice served under section 358(1) of the 1985 Act (service of overcrowding notice) before the first commencement date shall cease to have effect on that date unless it is a notice to which sub-paragraph (2) applies.
- (2) This sub-paragraph applies to a notice—
 - (a) which has become operative under section 358(3) of the 1985 Act before the first commencement date; or
 - (b) in respect of which an appeal has been brought under section 362 of that Act before that date.
 - (3) During the period beginning on the first commencement date and ending on 5th April 2008 the repeal of sections 358 to 364, 395, 396 and 397 of the 1985 Act shall not have effect in relation to a notice served to which sub-paragraph (2) applies.

Means of escape from fire

8. During the period beginning on the first commencement date and ending on 5th April 2008 the repeal of sections 365, 368, 395, 396 or 397 of the 1985 Act shall not have effect in relation to an undertaking accepted by a local housing authority under subsection (2) of section 368 of that Act before the first commencement date.

Standards of Management

9.—(1) During the period beginning on the first commencement date and ending on the date when regulations made by the Secretary of State under section 61(5) of the 2004 Act come into force, the repeal of sections 369, 372, 373 and 378 of the 1985 Act shall not have effect in relation to a relevant converted block of flats.

(2) During the period beginning on the first commencement date and ending on 5th April 2007—

- (a) the repeal of sections 369, 395, 396 and 397 of the 1985 Act shall not have effect in relation to the commission of any offence under regulations made under section 369 of that Act before the first commencement date;
- (b) the repeal of section 372 of the 1985 Act shall not have effect in relation to any notice served under subsection (1) of that section before that date; and
- (c) the repeal of section 373 of the 1985 Act shall not have effect in relation to an appeal brought under subsection (1) of that section before that date.

Works carried out by a local housing authority and enforcement

10.—(1) During the period beginning on the first commencement date and ending on the date when regulations made by the Secretary of State under section 61(5) of the 2004 Act come into force, the repeal of section 375 shall not have effect in relation a relevant converted block of flats.

(2) During the period beginning on the first commencement date and ending on 5th April 2008 the repeal of sections 375, 376, 377, 377A and 378 of, and Schedule 10 to, the 1985 Act shall not have effect in relation to any notice served under section 352 or 372 of that Act before the first commencement date.

Control Orders

11.—(1) This paragraph applies to a control order made under section 379(1) of the 1985 Act before the first commencement date.

(2) The repeal of sections 379 to 397 of, and Schedule 13 to, the 1985 Act shall not have effect in relation to a control order to which this paragraph applies.

(3) For so long as a control order to which this paragraph applies continues in force on and after the first commencement date, the provisions of Part 2 and 3 and Chapter 1 of Part 4 of the 2004 Act shall not have effect in relation to the house which is subject to the order.

(4) This sub-paragraph applies to a house which is subject to a control order to which this paragraph applies if, on the date, or immediately before the date, the order expires or is revoked in accordance with section 392 of the 1985 Act, the house is—

- (a) a HMO which is required to be licensed under Part 2 or 3 of the 2004 Act but is not so licensed and the local housing authority consider either—
 - (i) that there is no reasonable prospect of it being so licensed in the near future, or
 - (ii) that the health and safety condition described in section 104 of the 2004 Act is satisfied; or

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- (b) is a house other than one which is required to be licensed under Part 2 of the 2004 Act but in relation to which the local housing authority considers that that condition is satisfied.
- (5) The local housing authority shall not be required to make an interim management order under section 102 of the 2004 Act before making a final management order under section 113 of that Act in respect of a house to which sub-paragraph (4) applies.
- (6) Section 113 of the 2004 Act shall have effect for the purpose of the making of a final management order in respect of a house to which sub-paragraph (4) applies as if—
 - (a) in subsection (1) the words “who have made an interim management order in respect of a house under section 102(“the IMO)” were omitted; and
 - (b) in subsections (2) and (3)—
 - (i) references to the IMO were construed as references to the control order to which this paragraph applies; and
 - (ii) references to the expiry date of the IMO were construed as references to the date mentioned in sub-paragraph (4).
- (7) Section 114 of the 2004 Act shall have effect for the purpose of the making of a final management order in respect of a house to which sub-paragraph (4) applies as if—
 - (a) references to a “new final management order” were references to a final management order made under section 113 of that Act as modified by sub-paragraph (6); and
 - (b) references to the “existing order” in subsections (5) to (7) were references to the control orders to which this paragraph applies.
- (8) A control order to which sub-paragraph 4 applies shall remain in force until—
 - (a) an interim management order under section 102 of the 2004 Act is made;
 - (b) a final management order under section 113 of the 2004 Act is made; or
 - (c) the local housing authority decide that neither type of order described in paragraphs (a) or (b) of this sub-paragraph should be made.