

DEREGULATION ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Sections 44 and 45: Short-term use of London accommodation: relaxation of restrictions and power to relax restrictions

205. These two sections form a group.
206. The purpose of section 25 of the Greater London Council (General Powers) Act 1973 (“the 1973 Act”) is to restrict the use of residential premises in the 32 London boroughs and the City as temporary sleeping accommodation. This is achieved by making the use as temporary sleeping accommodation of the premises a material change of use for which planning permission is required. This applies even if only part of the premises is used as temporary sleeping accommodation.
207. Temporary sleeping accommodation is defined as sleeping accommodation which is occupied by the same person for less than ninety consecutive nights and which is provided (with or without services) for a consideration arising either by way of trade for money or money’s worth, or by reason of the employment of the occupant, whether or not the relationship of landlord and tenant is thereby created.
208. The purpose behind the provision was to protect London’s existing housing supply, for the benefit of permanent residents, by giving London boroughs greater and easier means of planning control to prevent the conversion of family homes into short term lets.
209. **Section 25** works within the context of the current planning system. Under the Town and Country Planning Act 1990 (the “1990 Act”) planning permission is required for the carrying out of any development of land (subject to certain provisions). The meaning of development is set out in section 55(1) of the 1990 Act and includes a material change of use. Section 25 (of the 1973 Act) deems the change of use from residential premises to temporary sleeping accommodation as a material change of use. This brings the change from residential premises to temporary sleeping accommodation within the definition of development and means that it therefore requires planning permission.
210. The development of the internet (and in particular holiday home-swap sites) and changes in the way that people want to use their home have led to calls for the provisions of section 25 to be relaxed so that people in London can let out their property as temporary sleeping accommodation for short periods without obtaining planning permission. The new sections give effect to the government’s response to these concerns.
211. **Section 44** creates a new section 25A of the 1973 Act which provides that the use as temporary sleeping accommodation of any residential premises in Greater London does not constitute a change of use (for which planning permission would be required) if certain conditions are met (the ‘Exception’). The conditions are set out in subsections (2) and (3) of section 25A. The first condition is that the sum of (a) the number of nights of use, and (b) the number of nights of any previous use of the same premises as temporary sleeping accommodation in the same calendar year, does not exceed ninety

*These notes refer to the Deregulation Act 2015 (c.20)
which received Royal Assent on 26 March 2015*

nights. The second condition is that, for each night counted under (a), the person who provided the sleeping accommodation must be liable to pay council tax (which would therefore include people who are liable to council tax but are in receipt of a discount).

212. The new section also creates a new section 25B of the 1973 Act which provides that either the local planning authority or the Secretary of State may direct that the Exception created by section 25A of the 1973 Act is not to apply to certain residential premises or residential premises in certain areas. Such a direction may only be given if it is necessary to protect the amenity of the locality. Subsection (3) provides that the local planning authority may only give a direction with the consent of the Secretary of State. Subsection (4) provides that the direction can be revoked by the person who gave the direction. Subsections (5) and (6) provide that the Secretary of State may delegate his power to give or revoke a direction, and direct that a local planning authority does not require the Secretary of State's consent to give a direction.
213. Subsection (7) contains regulation making powers, subject to the negative procedure, providing that the Secretary of State can make regulations in relation to the information which must be provided by a local planning authority when it is seeking consent to give a direction, as well as the procedure which should be followed in connection with the making or revocation of a direction.
214. [Section 45](#) provides the Secretary of State with a power to make regulations, subject to the affirmative procedure, so that further exceptions to section 25 of the 1973 Act may be created.
215. If regulations are made to create new exceptions, they must also include provision equivalent to section 25B of the 1973 Act (inserted by section 44) which permits the local planning authority or the Secretary of State to make a direction that the new exception will not apply to particular residential premises or residential premises situated in a particular area.
216. The new sections form part of the law of England and Wales but, as explained above, they apply only to London. They come into force on a day to be appointed by the Secretary of State in a commencement order.