

EXPLANATORY MEMORANDUM TO
THE HOUSES IN MULTIPLE OCCUPATION (SPECIFIED EDUCATIONAL
ESTABLISHMENTS) (ENGLAND) REGULATIONS 2010

2010 No. 607

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

The Regulations specify certain educational establishments managing or having control of buildings which are not houses in multiple occupation (“HMOs”) for the purpose of the Housing Act 2004 (“the Act”) (excluding Part 1 of the Act, which deals with housing conditions).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None

4. **Legislative Context**

4.1 Schedule 14 to the Act lists types of buildings which are not HMOs for any purpose of the Act other than those of Part 1. This includes, in paragraph 4 of that Schedule, any building which is occupied solely or principally by persons who occupy it for the purpose of undertaking a full-time course of further or higher education at an educational establishment specified by the appropriate national authority, or at an establishment of a description specified by the appropriate national authority, and where the person managing or having control of it is the educational establishment in question or a person of a description specified in regulations by the appropriate national authority.

4.2 Under section 233(1) of the Act, the “appropriate national authority” may by order approve a code of practice (whether prepared by that authority or another person) laying down standards of conduct and practice to be followed with regard to the management of HMOs or of excepted accommodation. By virtue of section 261(1) of the Act the Secretary of State is the appropriate national authority in relation to England. Excepted accommodation is defined in section 233(6) of the Act as being such description of living accommodation falling within any provision of Schedule 14 (buildings which are not HMOs for the purposes of provisions other than Part 1) as is specified in such an order.

4.3 The Secretary of State has approved two Codes of management practice in respect of buildings managed and controlled by educational establishments. The Universities UK/Standing Conference of Principals Code of Practice (“the UUK Code”) was approved by the Housing (Approval of a Code of Management Practice) (Student Accommodation) (England) Order 2006. The UUK Code lists in its

Schedule the buildings that are managed in conformity with that Code. The ANUK/Unipol Code of Standards for Larger Residential Developments (“the ANUK Code”) was approved by the Housing (Approval of a Code of Management Practice) (Student Accommodation) (England) Order 2008 (“the 2008 Order”). The ANUK Code lists in Schedule 1 to Appendix VII the buildings that are managed in conformity with that Code.

5. Territorial Extent and Application

This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 Student housing was a significant issue in debates during the Act's passage through Parliament. In any one year the number of students (at whatever stage in their studies) that are accommodated in property maintained by a higher educational establishment is in the region of 325,000¹. The number of students accommodated in privately maintained halls of residence is currently in the region of 50,000. This gives a total of 375,000 students or bed spaces. Almost two thirds of all students live in the private rented sector. However, just over a third of students are thought to live in purpose-built accommodation provided by the university or a commercial provider. If HMOs can be difficult to manage then student halls of residence offer management challenges of even greater complexity. That is why it is considered desirable for student housing to be managed in compliance with codes of practice designed specifically for such accommodation. There is a clear need to maintain good standards in student accommodation and this is achievable more easily through compliance with the codes rather than by requiring higher education establishments to license all their halls of residence and other accommodation provided by the establishment.

7.2 The lists of buildings in both the Regulations and the Schedules annexed to the Codes are reviewed regularly, to take account of the new universities or other higher educational establishments which have either joined or left the UUK or ANUK Code. This instrument brings up to date the list of establishments whose buildings are now managed in compliance with one of the Codes, in particular to take account of the Cambridge colleges which have recently become subject to the ANUK Code.

7.3 Paper copies of the Codes are available from the Code writers on request. A copy of the UUK Code was lodged in both Houses of Parliament in February 2006 and a copy of the ANUK Code was lodged in both Houses of Parliament in September 2008. The updated Schedules are being lodged in both Houses of Parliament at the same time that these Regulations are laid.

¹ Source 2007/08 Higher Education Statistics Agency

7.4 An electronic copy of the ANUK Code is available via the internet at www.unipol.leeds.ac.uk or www.anuk.org.uk. An electronic copy of the UUK Code is available via the internet at www.universitiesUK.ac.uk.

- ***Consolidation***

7.5 The Regulations revoke the Houses in Multiple Occupation (Specified Educational Establishments) (England) Regulations 2009 (“the 2009 Regulations”). The Regulations replace the list of establishments that were listed in the Schedule to the 2009 Regulations.

8. Consultation outcome

No consultation has been carried out as this instrument brings up to date the list of establishments whose buildings are now managed in compliance with one of the Codes and no changes have been made to the standards of conduct and practice in the Codes themselves.

9. Guidance

No guidance has been provided by Government in respect of these Regulations. Membership of the UUK or ANUK Code is voluntary and both of these organisations are responsible for ensuring that members of their Code have the information necessary to ensure their compliance. Educational establishments which are not members of either the UUK or ANUK Code will be subject to the mandatory licensing of Houses in Multiple Occupation under Part 2 of the Act. Guidance on the licensing of Houses in Multiple Occupation has been provided by the Department on its web site to owners of such accommodation and to the local authorities which are responsible for enforcing Part 2 of the Act and as specified by the related regulations.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies of complying with either the UUK or ANUK Code.

10.2 The impact on the public sector of complying with a code of practice was estimated to be significantly less than £5 million when Regulations approving the UUK Code were made in February 2006, and this still remains the case. By agreeing to comply with a code of practice the providers of certain student accommodation may be exempted from the HMO definition and therefore will not be subject to mandatory licensing under Part 2 of the Act. For commercial undertakings that comply with a code of practice there is the prospect of lower costs and less direct regulation than under licensing. The effect of these Regulations will also reduce the impact on local authorities who would otherwise have to carry out inspections of student property, for the purposes of mandatory HMO licensing. The Regulations will also have the effect of reducing costs for the providers of student accommodation. If the estimated student bed-space accommodation had to be licensed at anywhere near the current indicative maximum licensing fee of £500 for 5

years (or £100 per year) the total cost could be £24 million. But for property that is managed and controlled by a higher educational establishment, the costs of complying with a code of practice are currently estimated at roughly £0.76 per bed space. So for 325,000 bed spaces the total cost would be only £247,000.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The Department sits on the ANUK/Unipol Committee of Management for the National Code of Standards for Larger Student Developments and on UUK's Governance Board for the operation of its Code of Practice. Both UUK and ANUK also submit annual reports to the Department on the operation of their Codes of Practice.

13. Contact

Paul Martin at the Department for Communities and Local Government, tel: 0303 444 1668 or e-mail: PaulG.Martin@communities.gsi.gov.uk, can answer any queries regarding the instruments.