

**EXPLANATORY MEMORANDUM TO**  
**THE HOUSES IN MULTIPLE OCCUPATION (SPECIFIED EDUCATIONAL**  
**ESTABLISHMENTS) (ENGLAND) (No. 2) REGULATIONS 2007**

**2007 No. 2601**

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

**2. Description**

2.1 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). They revoke and replace the Houses in Multiple Occupation (Specified Educational Establishments) (England) Regulations 2007 (S.I. No 2007/708) which were made for the same purpose. The effect is to increase the number of educational establishments which are specified by 4.

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

3.1 None.

**4. Legislative Background**

4.1 Schedule 14 to the Act describes the buildings which are not houses in multiple occupation 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 the building is the educational establishment in question or a person of a description specified by the appropriate national authority. The consequence of a building not being a house in multiple occupation is that it will not be subject to mandatory licensing by the local housing authority for the district in which it is located under Part 2 of the Act.

4.2 The Regulations specify certain educational establishments for the purposes of paragraph 4 of Schedule 14. In order for the buildings belonging to the establishments listed in the Regulations to be excluded from the definition of HMO, the buildings have to be listed in the schedule annexed to one of the Codes of Practice mentioned in article 2(2)(a) and (b) of the Housing (Approval of Codes of Management Practice) (Student Accommodation) (England) Order 2006 (S.I. No. 2006/646). Since S.I. No. 2007/708 was made were made, 85 additional buildings have been included in the relevant Schedule to the Codes of Practice. Some of these belong to educational establishments not previously mentioned in the Schedule to S.I. No. 2007/708, these being Girton College, University of Cambridge, Queens College, University of Cambridge, Richmond, the American International University in London and Wolfson College, University of Cambridge.

4.3 By virtue of section 261(1) of the Act the Secretary of State is the appropriate national authority for statutory instruments made under that Act in relation to England.

## **5. Extent**

5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

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

## **7. Policy background**

7.1 Student housing was a significant issue in debates during the Act's passage through Parliament. 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 necessary 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 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 two Codes of Practice referred to in paragraph 4.2 were approved by the Housing (Approval of Codes of Management Practice) (Student Accommodation) (England) Order 2006 (S.I. No. 2006/646) and are published on the respective websites of Universities UK (UUK), the Accreditation Network UK (ANUK) and Unipol. Each Code of Practice has annexed to it a Schedule listing the buildings that are being managed in compliance with the Code. The relevant Schedules to the Codes of Practice were updated on 22nd August 2007. No changes have been made to the standards of conduct and practice in the Codes themselves. The total number of buildings now listed as complying with one or other Code is 5211, an increase of 2 per cent since February 2007, when S.I. 2007/708 was made.

7.3 It is expected that more and more universities and other higher educational establishments will seek to be exempted from licensing. The lists of buildings in both

the Regulations and the Schedules annexed to the Codes are therefore to be reviewed regularly. This instrument brings up to date the list of establishments whose buildings are now managed in compliance with one of the Codes. The combined effect is that an additional 41 buildings are to be treated as not being HMOs for the purposes of the Act (other than Part 1, which deals with housing conditions).

7.4 Paper copies of the Codes will be made available by the code writers on request. Copies of the Codes were lodged in both Houses of Parliament in February 2006. The Schedules updated to 22<sup>nd</sup> August are being lodged in both Houses of Parliament with these Regulations.

## **8. Impact**

8.1 No impact assessment has been provided. The impact on the public sector of complying with a code of practice is estimated to be significantly less than £5m, and so this is the maximum cost that could be passed on the private sector, for example, by way of higher rents. Where an educational establishment agrees to manage student accommodation in compliance with either Code of Practice such accommodation so managed will be excepted from the HMO definition and therefore will not be subject to mandatory licensing under Part 2 of the Act. The total number of buildings now listed as complying with one or other Code is 5216, an increase of 1 per cent since February 2007.

8.2 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 300,000. The number of students accommodated in privately maintained halls of residence is in the region of 100,000. This gives a total of 400,000 students or bed spaces. If all this accommodation had to be licensed at anywhere near the indicative maximum licensing fee of £180 for 5 years (or £36 per year) the total cost could be £14.4m. But for property that is managed and controlled by a higher educational establishment the costs of complying with a Code of Practice are estimated at only £0.70 per bed space. So for 300,000 bed spaces the total cost would be only £210,000.

## **9. Contact**

9.1 Rachel Edwards of the Department for Communities and Local Government, Tel: 020 7944 6366 or e-mail: [Rachel.edwards@communities.gsi.gov.uk](mailto:Rachel.edwards@communities.gsi.gov.uk) can answer any queries regarding the instrument.