

EXPLANATORY MEMORANDUM TO
THE LICENSING AND MANAGEMENT OF HOUSES IN MULTIPLE
OCCUPATION AND OTHER HOUSES (MISCELLANEOUS PROVISIONS)
(AMENDMENT) (ENGLAND) REGULATIONS 2012

2012 No. 2111

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**

2.1 The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Amendment) (England) Regulations 2012 (“the Regulations”) amend the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (“the 2006 Regulations”).

2.2 The 2006 Regulations specify the information required in a Houses in Multiple Occupation (“HMOs”) licence application form. These Regulations reduce the information requirements for applications for the renewal of licences for HMOs requiring a licence under Part 2 of the Housing Act 2004 and for houses requiring a licence under Part 3 of that Act.

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

3.1 None.

4. **Legislative Context**

4.1 Section 61 of the Housing Act 2004 (“the 2004 Act”) requires every HMO to which Part 2 of that Act applies to be licensed (subject to certain exemptions). Section 63 of the 2004 Act and the 2006 Regulations prescribe the information that is to be required in an HMO licence application form, regardless of whether the application is a new application or for a renewal of a licence.

4.2 Section 63(5) provides that the appropriate national authority may by regulations make provision about the making of the applications under this section. Section 63(6) provides that such regulations may specify the information which is to be supplied in connection with applications.

4.3 Section 87 makes the same provision for the application for selective licences under Part 3 of the 2004 Act.

4.4 These Regulations amend the 2006 Regulations so that where an application under Part 2 or 3 is a renewal application (that is, where a licence of the kind sought already exists at the time the application is made) the information required by paragraph 2(c) to (g) of Schedule 2 to those Regulations is not required. Instead, the applicant will be required to declare that the information has not materially changed since the existing licence was granted or to set out any material changes as part of the declaration.

5. Territorial Extent and Application

5.1 This instrument applies in relation to England only.

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 The Housing Act 2004 introduced a comprehensive package of powers for local authorities to deal with the worst privately rented properties, including the statutory duty to licence larger, high risk privately rented Houses in Multiple Occupation (HMOs). Whilst the Government is satisfied that the overall legislative framework for tackling problems in HMOs achieves the right balance between the rights and obligations of private landlords and tenants, they wish to simplify the application form for HMO licence renewals as part of the commitment to reduce red-tape and unnecessary form filing.

7.2 No provision was made for HMO licence renewals under the original legislation. Local authorities therefore required the same information on an HMO licence renewal application form as they would for an initial HMO licence application. These regulations therefore simplify the HMO licence renewal application form for those properties where there has been no material change since the initial licence was granted, as the information will already be held by the local authority. If there has been a material change to the property the regulations enable a landlord to declare these in the HMO licence renewal application form. The suitability of a person to hold an HMO licence, as well as the need to ensure that licensable properties still have the necessary inspections to ensure suitable conditions, are some of the key provisions associated with the HMO licensing regime. These regulations make no change to those provisions.

- Consolidation

7.3 We do not propose to consolidate the regulations at this stage.

8. Consultation outcome

8.1 Local authorities and private landlords are supportive of the regulations as they will help reduce the administrative, and in some cases, the financial burdens associated with HMO licence renewals. The Impact Assessment attached to the regulations sets this out in further detail. Tenant representative groups were concerned that landlords of licensable HMOs should still meet the “fit and proper” person test and these regulations make no change to those provisions.

9. Guidance

9.1 We do not propose to publish guidance for these regulations. Local authorities have the discretion to make the necessary changes to their HMO licensing renewal application forms.

10. Impact

10.1 An Impact Assessment is attached to this memorandum and will be published at <http://www.communities.gov.uk/housing/privaterentedhousing/>

11. Regulating small business

11.1 The legislation applies to small business as they will benefit from the simplified application form for HMO licence renewals.

12. Monitoring & review

12.1 We do not propose to monitor these regulations.

13. Contact

13.1 Rebecca Shrubsole at the Department for Communities and Local Government Tel: 0303 44 43618 or email: rebecca.shrubsole@communities.gsi.gov.uk can answer any queries regarding the instrument.