

EXPLANATORY MEMORANDUM TO

Categories of Tourist Establishment (Statutory Criteria) (Amendment) Regulations (Northern Ireland) 2011

S.R. 2011 No. 104

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 12(5) and (6) of the Tourism (Northern Ireland) Order 1992 and is subject to the the negative resolution procedure.

2. Purpose

- 2.1. The Statutory Rule amends the Categories of Tourist Establishment (Statutory Criteria) Regulations (Northern Ireland) 1992 (referred to hereafter as the “principal regulations”). These regulations prescribe the criteria which must be met by tourist accommodation establishments in order for them to be eligible for allocation to one of the 5 categories of tourist establishment (these are currently defined by the Tourism Order as Hotel, Guest House, Bed and Breakfast, Self Catering and Hostel). Establishments which meet the prescribed criteria receive a certificate from the Northern Ireland Tourist Board (NITB) and it is an offence to offer tourist accommodation without being in receipt of a valid NITB certificate.
- 2.2. The regulations set out minimum requirements in terms of the nature, character, extent and standard of accommodation and facilities to be provided by tourist accommodation establishments. The principal regulations were last updated in November 2009 by the Categories of Tourist Establishment (Statutory Criteria) (Amendment) Regulations (Northern Ireland) 2009 (referred to hereafter as the “2009 Regulations”). The 2009 Regulations made amendments to the criteria for the existing 5 categories of tourist establishment as set out in the 5 Schedules to the principal Regulations. These amendments aimed at easing, where possible, the regulatory burden on tourist accommodation businesses.
- 2.3. These regulations set out the criteria for 3 new categories of tourist establishment by inserting 3 new Schedules into the principal Regulations. These 3 new categories are Bunk House Campus Accommodation and Guest Accommodation. These new categories seek to facilitate tourist accommodation providers. The Regulations also make minor amendments to the principal Regulations as well as revoking subordinate legislation made before the coming into operation of the Tourism (Northern Ireland) Order 1992 and which still remains on the statute book.
- 2.4. Regulation 2(2) substitutes the Table as set out in regulation 2 to the principal regulations. The new Table updates the list of statutory

categories of tourist establishment and the corresponding Schedule within which the criteria for that category of tourist establishment may be found.

- 2.5. Regulation 2(3) makes an amendment to paragraph 7(2)(b) of Schedule 1 (criteria for hotels) to the principal Regulations. Paragraph 7(2)(b) was amended by regulation 2(6)(a) of the 2009 Regulations. The Sixth Report of the Examiner of Statutory Rules dated 25 November 2009 which dealt with the 2009 Regulations made reference to the wording used in this amendment and was of the opinion that an alternative form of wording could have been used. The Department concurs with the Examiner's view and has amended the wording accordingly.
- 2.6. Regulation 2(6) makes an amendment to paragraph 1(1)(c) of Schedule 3 (criteria for bed and breakfast establishments) to the principal Regulations. Paragraph 1(1)(c) was inserted by regulation 6(2)(d) of the 2009 Regulations but unfortunately this resulted in two verbs being used side by side and therefore did not make sense. This amendment corrects this anomaly.
- 2.7. Regulation 2(5) and regulation 2(7) to (9) make a minor identical amendment to Schedules 2, 3, 4 and 5.
- 2.8. Schedule 1 to these Regulations inserts 3 new categories of tourist establishment into the principal Regulations. These new categories are bunk house, campus accommodation and guest accommodation.
- 2.9. A bunk house offer simple overnight accommodation which retains its character and original internal and external features whenever possible. A bunk house would usually be located in remote or rural locations where facilities and services may be limited. The clientele for these establishments would primarily be walkers and backpackers.
- 2.10. Campus accommodation is provided by educational establishments for their students and is made available to individuals, families or groups at certain times of the year.
- 2.11. Guest accommodation is a category whose primary focus is the provision of bedrooms. This category would, for example, facilitate restaurants which wish to provide rooms for tourists.
- 2.12. Schedule 2 to these Regulations revokes subordinate legislation made under powers contained in the Development of Tourist Traffic Act (Northern Ireland) 1948 (c. 4) and the Development of Tourist Traffic (Amendment) Act (Northern Ireland) 1963 (c. 4). The 1948 Act and subsequent amending Acts and Orders were repealed in their entirety by Article 34 of, and Schedule 4 to, the Tourism Order. However subordinate legislation made under the 1948 and 1963 Acts was not revoked at the time the Tourism Order came into force and remained on the statute book. The revocation of this legislation is a tidying up exercise and will remove from the statute book statutory rules and orders that no longer serve any useful function.

3. Background

- 3.1. The Tourism (Northern Ireland) Order 1992 requires that tourist accommodation is inspected and certified by NITB. The Tourism Order

sets out the requirement for NITB inspections (frequency etc) and provides for underpinning Regulations. Regulations are used to define which categories of tourist accommodation are subject to inspection and the criteria to be met by establishments in these categories.

- 3.2. At present there are 5 categories of tourist accommodation listed in Article 12(1) of the Tourism Order - Hotels, Guest Houses, Bed and Breakfast establishments, Self Catering establishments and Hostels. Article 12 (2) of the Tourism Order provides for this list to be amended (by adding or removing categories) by Statutory Rule made by affirmative resolution procedure before the Assembly.
- 3.3. In 2009 DETI consulted a number of aspects of the Tourism Order and associated subordinate legislation which required updating in light of changes in tourism. This included the proposed introduction of 3 new categories of accommodation to be added to the current list in Article 12(1) of the Tourism Order- Bunk House, Campus Accommodation and Guest Accommodation. These new categories have now been added to Article 12(1) by means of the Categories of Tourist Establishment Order (Northern Ireland) 2011 (S.R. 2011 No.40). This Order was made by the affirmative resolution procedure and affirmed by the Assembly on 14 March. These regulations set out the criteria for the 3 new categories of tourist establishment.

4. Consultation

- 4.1. In seeking to identify changes to the principal regulations DETI and NITB undertook extensive informal consultation with relevant tourism bodies. The feedback received from these informal consultations was positive and was key to identifying the changes proposed in the Statutory Rule. DETI subsequently completed a formal consultation on the changes proposed in the Statutory Rule.

5. Equality Impact

- 5.1. Equality aspects of the changes to the existing arrangements were considered by DETI. It was concluded that the changes proposed in the Statutory Rule would not have any adverse impact on groups stipulated in Section 75 of the Northern Ireland Act 1998.

6. Regulatory Impact

- 6.1. DETI considered the regulatory impact of the changes proposed in the Statutory Rule and believe that the introduction of the 3 new categories of tourist establishment will be of benefit to the tourist industry by facilitating current and future accommodation requirements.

7. Financial Implications

- 7.1. There are no financial implications associated with the Statutory Rule.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered the matter of Community Law and Convention Rights and is satisfied that there are no matters of concern.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The Statutory Rule is specific to Northern Ireland. Northern Ireland is unique within the United Kingdom in providing by statute that all overnight tourist accommodation is subject to compulsory certification and annual inspection. There is no similar legislative requirement in GB.

11. Additional Information

11.1. Not applicable.