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STATUTORY INSTRUMENTS

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**2006 No. 373**

**The Licensing and Management of Houses  
in Multiple Occupation and Other Houses  
(Miscellaneous Provisions) (England) Regulations 2006**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 and shall come into force on 6th April 2006.

(2) These Regulations apply in relation to any HMO<sup>(1)</sup> in England, other than a converted block of flats to which section 257 of the Act applies, and to any house<sup>(2)</sup> in England to which Part 3 of the Act applies<sup>(3)</sup>.

**Interpretation**

2. In these Regulations “the Act” means the Housing Act 2004.

**Persons to be regarded as forming a single household for the purposes of section 254 of the Act: employees**

3.—(1) Where—

- (a) a person (“person A”) occupies living accommodation in a building or part of a building; and
- (b) another person (“person B”) and any member of person B’s family living with him occupy living accommodation in the same building or part,

those persons are only to be regarded as forming a single household for the purposes of section 254 of the Act if their circumstances are those described in paragraph (2).

(2) The circumstances are that—

- (a) Person A carries out work or performs a service of an exclusively domestic nature for person B or such a member of person B’s family;
- (b) Person A’s living accommodation is supplied to him by person B or by such a member of person B’s family as part of the consideration for carrying out the work or performing the service; and
- (c) person A does not pay any rent or other consideration in respect of his living accommodation (other than carrying out the work or performance of the service).

(3) Work or a service usually carried out or performed by any of the following is to be regarded as work or service of a domestic nature for the purpose of paragraph (2)(a)—

- (a) au pair;

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(1) For the meaning of “HMO” see sections 77 and 254 to 259 of the Act.

(2) For the meaning of “house” see sections 79(2) and 99 of the Act.

(3) See section 79(2) of the Act.

- (b) nanny;
- (c) nurse;
- (d) carer;
- (e) governess;
- (f) servant, including maid, butler, cook or cleaner;
- (g) chauffeur;
- (h) gardener;
- (i) secretary; or
- (j) personal assistant.

(4) Where person A and person B are to be regarded as forming a single household under paragraph (1) any member of person A's family occupying the living accommodation with him is to be regarded as forming a single household with person A, person B and any member of person B's family living with him for the purpose of section 254 of the Act.

#### **Other persons to be regarded as forming a single household for the purposes of section 254 of the Act**

4.—(1) Where a person receiving care and his carer occupy living accommodation in the same building or part of a building, they are to be regarded as forming a single household for the purposes of section 254 of the Act if—

- (a) the carer is an adult placement carer approved under the Adult Placement Schemes (England) Regulations 2004<sup>(4)</sup>; and
- (b) the carer provides care in that living accommodation for not more than three service users under the terms of a scheme permitted by those Regulations.

(2) Where a person and his foster parent occupy living accommodation in the same building or part of a building, they are to be regarded as forming a single household for the purposes of section 254 of the Act if that person is placed with the foster parent under the provisions of the Fostering Services Regulations 2002<sup>(5)</sup>.

(3) The terms “adult placement carer”<sup>(6)</sup> and “service users”<sup>(7)</sup> have the meanings given to those expressions in the regulations referred to in paragraph (1)(a).

#### **Persons treated as occupying premises as their only or main residence for the purposes of section 254 of the Act**

5.—(1) A person is to be treated as occupying a building or part of a building as his only or main residence for the purposes of section 254 of the Act if he is—

- (a) a migrant worker or a seasonal worker—
  - (i) whose occupation of the building or part is made partly in consideration of his employment within the United Kingdom, whether or not other charges are payable in respect of that occupation; and

<sup>(4)</sup> [SI 2004/2071](#).

<sup>(5)</sup> [SI 2002/57](#).

<sup>(6)</sup> In regulation 2 of the Adult Placement Schemes (England) Regulations 2004 “adult placement carer” means a person who, under the terms of a carer agreement entered into with a person who carries on an adult placement scheme, provides, or intends to provide, care or support (which may include accommodation in the carer's home) for service users.

<sup>(7)</sup> In regulation 2 of the Adult Placement Schemes (England) Regulations 2004 “service user” in relation to a scheme, means an adult who may be or is placed by the scheme. A “scheme” is an adult placement scheme carried on by a person who is registered under Part 2 of the Care Standards Act 2000 ([2000 c. 14](#)) to carry on the scheme.

- (ii) where the building or part is provided by, or on behalf of, his employer or an agent or employee of his employer; or
  - (b) an asylum seeker or a dependent of an asylum seeker who has been provided with accommodation under section 95 of the Immigration and Asylum Act 1999<sup>(8)</sup> and which is funded partly or wholly by the National Asylum Support Service<sup>(9)</sup>.
- (2) In this regulation—
- (a) “a migrant worker” is—
    - (i) a person who is a national of a member State of the European Economic Area or Switzerland who has taken up an activity as an employed person in the United Kingdom under Council Regulation (EEC) No 1612/68 on Freedom of Movement for Workers Within the Community<sup>(10)</sup>, as extended by the EEA Agreement or the Switzerland Agreement; or
    - (ii) any person who has a permit indicating, in accordance with the immigration rules, that a person named in it is eligible, though not a British citizen, for entry into the United Kingdom for the purpose of taking employment;
  - (b) “EEA agreement” means the agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993;
  - (c) “Switzerland agreement” means the agreement between the European Community and its Member States of the one part and the Swiss Confederation of the other on the Free Movement of Persons signed at Luxembourg on 21st June 1999 and which came into force on 1st June 2002;
  - (d) “seasonal worker” means a person who carries out for an employer or undertaking employment of a seasonal character—
    - (i) the nature of which depends on the cycle of the seasons and recurs automatically each year; and
    - (ii) the duration of which cannot exceed eight months;
  - (e) “immigration rules” means the rules for the time being laid down as mentioned in section 3(2) of the Immigration Act 1971<sup>(11)</sup> and
  - (f) “asylum seeker” has the meaning given to that expression in section 94 of Immigration and Asylum Act 1999.

### **Buildings that are not HMOs for the purposes of the Act (excluding Part 1)**

6.—(1) A building is of a description specified for the purposes of paragraph 3 of Schedule 14 to the Act (buildings regulated otherwise than under the Act which are not HMOs for purposes of the Act (excluding Part 1)) where its occupation is regulated by or under any of the enactments listed in Schedule 1.

(2) The number of persons specified for the purposes of paragraph 6(1)(c) of Schedule 14 to the Act is two.

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<sup>(8)</sup> 1999 c. 33.

<sup>(9)</sup> The National Asylum Support Service is a department within the Home Office.

<sup>(10)</sup> O.J. L257, 19th October 1968, as amended by EEC 312/76 (O.J. L 39, 14th February 1976) and EEC 2434/92 (O.J.L.245, 26th August 1992).

<sup>(11)</sup> 1971 c. 77.

### **Applications for licences under Part 2 or 3 of the Act**

7.—(1) An application for a licence under section 63 (application for HMO licence) or 87 (application for licence of Part 3 house) of the Act (“an application”) must include a statement in the form specified in paragraph 1 of Schedule 2

(2) An applicant must supply as a part of his application—

- (a) the information contained in paragraph 2 of Schedule 2; and
- (b) the information relating to the proposed licence holder or proposed manager of the HMO or house specified in paragraph 3 of that Schedule.

(3) An applicant must—

- (a) supply with the application completed and signed declarations in the form specified in paragraph 4 of Schedule 2; and
- (b) sign the application.

(4) Where the applicant proposes that another person should be the licence holder, both the applicant and the proposed licence holder must comply with the requirements in paragraph (3).

(5) The applicant must give the following information about the application to every relevant person—

- (a) the name, address, telephone number and any e-mail address or fax number of the applicant;
- (b) the name, address, telephone number and any e-mail address or fax number of the proposed licence holder (if he is not the applicant);
- (c) the type of application by reference to it being made in respect of an HMO that must be licensed under Part 2 or in respect of a house that must be licensed under Part 3 of the Act;
- (d) the address of the HMO or house to which the application relates;
- (e) the name and address of the local housing authority to which the application is made; and
- (f) the date on which the application is, or is to be, made.

(6) Nothing in paragraph (5) precludes an applicant from supplying a copy of the application, or other information about the application, to a relevant person.

(7) A local housing authority must refund an applicant in full any fee that he has paid in respect of an application as soon as reasonably practicable after it learns that at the time the fee was paid—

- (a) in the case of an application for a licence under Part 2 of the Act, the house was not an HMO, or was not an HMO that was required to be licensed; or
- (b) in the case of an application for a licence under Part 3 of the Act, the house was a house that was not required to be licensed under Part 2 or 3 of the Act.

(8) Paragraph (7) applies whether or not the local housing authority, pursuant to the application, granted a licence for the HMO or house when it was not required to be licensed.

(9) For the purposes of this regulation a “relevant person” is any person (other than a person to whom paragraph (10) applies)—

- (a) who, to the knowledge of the applicant, is—
  - (i) a person having an estate or interest in the HMO or house that is the subject of the application, or
  - (ii) a person managing or having control of that HMO or house (and not falling within paragraph (i)); or

- (b) where the applicant proposes in the application that conditions should be in the licence imposing a restrictions or obligation on any person (other than the licence holder, that person (12).
- (10) This paragraph applies to any tenant under a lease with an unexpired term of three years or less.

**Prescribed standards for deciding the suitability of a house for multiple occupation by a particular maximum number of households or persons**

8. The standards prescribed for the purpose of section 65 of the Act (tests as to suitability of HMO for multiple occupiers) are those set out in Schedule 3.

**Publication requirements relating to designations under Part 2 or 3 of the Act**

9.—(1) A local housing authority that is required under section 59(2) or 83(2) of the Act to publish a notice of a designation of an area for the purpose of Part 2 or 3 of the Act must do so in the manner prescribed by paragraph (2).

(2) Within 7 days after the date on which the designation was confirmed or made the local housing authority must —

- (a) place the notice on a public notice board at one or more municipal buildings within the designated area, or if there are no such buildings within the designated area, at the closest of such buildings situated outside the designated area;
- (b) publish the notice on the authority's internet site; and
- (c) arrange for its publication in at least two local newspapers circulating in or around the designated area—
  - (i) in the next edition of those newspapers; and
  - (ii) five times in the editions of those newspapers following the edition in which it is first published, with the interval between each publication being no less than two weeks and no more than three weeks.

(3) Within 2 weeks after the designation was confirmed or made the local housing authority must send a copy of the notice to—

- (a) any person who responded to the consultation conducted by it under section 56(3) or 80(9) of the Act;
- (b) any organisation which, to the reasonable knowledge of the authority—
  - (i) represents the interests of landlords or tenants within the designated area; or
  - (ii) represents managing agents, estate agents or letting agents within the designated area; and
- (c) every organisation within the local housing authority area that the local housing authority knows or believes provides advice on landlord and tenant matters, including—
  - (i) law centres;
  - (ii) citizens' advice bureaux;
  - (iii) housing advice centres; and
  - (iv) homeless persons' units.

(4) In addition to the information referred to in section 59(2)(a), (b) and(c) or 83(2)(a), (b) and(c), the notice must contain the following information—

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(12) For licence conditions see sections 67 and 90 of the Act. and, in particular, sections 67(5) and 90(6).

- (a) a brief description of the designated area;
- (b) the name, address, telephone number and e-mail address of—
  - (i) the local housing authority that made the designation;
  - (ii) the premises where the designation may be inspected; and
  - (iii) the premises where applications for licences and general advice may be obtained;
- (c) a statement advising any landlord, person managing or tenant within the designated area to seek advice from the local housing authority on whether their property is affected by the designation; and
- (d) a warning of the consequences of failing to licence a property that is required to be licensed, including the criminal sanctions.

### **Publication requirements relating to the revocation of designations made under Part 2 or 3 of the Act**

**10.**—(1) A local housing authority that is required under section 60(6) or 84(6) of the Act to publish a notice of revocation of a designation of an area for the purposes of Part 2 or 3 of the Act, must do so in the manner prescribed by paragraph (2).

- (2) Within 7 days after revoking a designation the local housing authority must —
  - (a) place a notice on a public notice board at one or more municipal buildings within the designated area, or if there are no such buildings within the designated area, at the closest of such buildings situated outside the designated area;
  - (b) publish the notice on the authority’s internet site; and
  - (c) arrange for the publication of the notice in at least two local newspapers circulating in or around the designated area in the next edition of those newspapers.
- (3) The notice must contain the following information—
  - (a) a brief description of the area to which the designation being revoked relates;
  - (b) a summary of the reasons for the revocation;
  - (c) the date from which the revocation takes effect;
  - (d) the name, address, telephone number and e-mail address—
    - (i) of the local housing authority that revoked the designation; and
    - (ii) where the revocation may be inspected.

### **Registers of Licences**

**11.**—(1) The following particulars are prescribed for each entry in a register established and maintained under section 232(1)(a) of the Act in respect of a licence granted under Part 2 (HMOs) or 3 (selective licensing) of the Act which is in force—

- (a) the name and address of the licence holder;
- (b) the name and address of the person managing the licensed HMO or house;
- (c) the address of the licensed HMO or house;
- (d) a short description of the licensed HMO or house;
- (e) a summary of the conditions of the licence;
- (f) the commencement date and duration of the licence;
- (g) summary information of any matter concerning the licensing of the HMO or house that has been referred to a residential property tribunal or to the Lands Tribunal; and

- (h) summary information of any decision of the tribunals referred to in sub-paragraph (g) that relate to the licensed HMO or house, together with the reference number allocated to the case by the tribunal.

(2) The following additional particulars are prescribed for each entry in a register established and maintained under section 232(1)(a) of the Act in respect of a licence granted under Part 2 of the Act which is in force—

- (a) the number of storeys comprising the licensed HMO;
- (b) the number of rooms in the licensed HMO providing—
  - (i) sleeping accommodation; and
  - (ii) living accommodation;
- (c) in the case of a licensed HMO consisting of flats—
  - (i) the number of flats that are self contained; and
  - (ii) the number of flats that are not self contained;
- (d) a description of shared amenities including the numbers of each amenity; and
- (e) the maximum number of persons or households permitted to occupy the licensed HMO under the conditions of the licence.

### **Registers of temporary exemption notices**

**12.**—(1) The following particulars are prescribed for each entry in a register established and maintained under section 232(1)(b) of the Act in respect of a temporary exemption notice served under section 62 or 86 of the Act which is in force—

- (a) the name and address of the person notifying the local housing authority under section 62(1) or section 86(1) of the Act;
- (b) the address of the HMO or house in respect of which the local housing authority has served the temporary exemption notice and any reference number allocated to it by the authority;
- (c) a summary of the effect of the notice;
- (d) details of any previous temporary exemption notices that have been served in relation to the same HMO or house for a period immediately preceding the current temporary exemption notice;
- (e) a statement of the particular steps that the person referred to in sub-paragraph (a) intends to take with a view to securing that the HMO or house is no longer required to be licensed;
- (f) the date on which the local housing authority served the temporary exemption notice and the date on which it ceases to be in force;
- (g) summary information of any matter concerning the HMO or house that has been referred to a residential property tribunal or to the Lands Tribunal; and
- (h) summary information of any decision of the tribunals referred to in sub-paragraph (g) that relate to the HMO or house together with the reference number allocated to the case by the tribunal.

### **Registers of management orders**

**13.**—(1) The following particulars are prescribed for each entry in a register established and maintained under section 232(1)(c) of the Act in respect of a management order made under section 102(2), (3), (4) or (7) or 113(1) or (6) of the Act—

- (a) the address of the HMO or house to which the order relates and any reference number allocated to it by the local housing authority;

- (b) a short description of the HMO or house;
- (c) the date on which the order comes into force;
- (d) a summary of the reasons for making the order;
- (e) a summary of the terms of the order and the type of order made ;
- (f) summary information of any application concerning the HMO or house that has been made to a residential property tribunal or to the Lands Tribunal; and
- (g) summary information of any decision of the tribunals referred to in sub-paragraph (f) that relate to the HMO or house, together with the reference number allocated to the case by the tribunal.

(2) The following additional particulars are prescribed for each entry in a register established and maintained under section 232(1)(c) of the Act in respect of a management order made under section 102(2), (3), (4) or (7) or 113(1) or (6) of the Act which is in force—

- (a) the number of storeys comprising the HMO;
- (b) the number of rooms in the HMO providing—
  - (i) sleeping accommodation; and
  - (ii) living accommodation;
- (c) in the case of an HMO consisting of flats—
  - (i) the number of flats that are self contained;
  - (ii) the number of flats that are not self contained;
  - (iii) a description of shared amenities including the numbers of each amenity;
  - (iv) the maximum number of households permitted to occupy the HMO; and
  - (v) the maximum number of persons permitted to occupy the HMO.

(3) The following particulars are prescribed for each entry in a register established and maintained under section 232(1)(c) of the Act in respect of an empty dwelling management order made under section 133(1) or 136(1) or (2) of the Act—

- (a) the address of the dwelling<sup>(13)</sup> to which the order relates and any reference number allocated to it by the local housing authority;
- (b) a short description of the dwelling;
- (c) the date on which the order comes into force;
- (d) a summary of the reasons for making the order;
- (e) a summary of the terms of the order;
- (f) summary information of any application concerning the dwelling that has been made to a residential property tribunal or to the Lands Tribunal; and
- (g) summary information of any decision of the tribunals referred to in sub-paragraph (f) that relate to the dwelling, together with the reference number allocated to the case by the tribunal.

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<sup>(13)</sup> For the definition of dwelling see section 132(4)(a) and (b) of the Act.



Signed by authority of the First Secretary of State

15th February 2006

*Kay Andrews*  
Parliamentary Under Secretary of State  
Office of the Deputy Prime Minister