
EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations modify Part 2 (licensing of houses in multiple occupation) and Part 4 (additional control provisions in relation to residential accommodation) of the Housing Act 2004 (“the Act”) and section 263 of the Act in its operation for the purposes of those Parts, in relation to a house in multiple occupation (HMO) to which section 257 of the Act applies (a “section 257 HMO”).

Section 257 of the Act applies to a building or a part of a building which has been converted into, and consists of, self-contained flats if the building work undertaken in connection with the conversion did not comply with appropriate building standards and still does not comply with them, and less than two-thirds of the self-contained flats are owner-occupied. A flat is owner-occupied if it is occupied by a person who has a lease granted for a term of more than 21 years or by a person who has the freehold estate in the converted block of flats, or by a member of the household of a person within either of those two descriptions.

The Regulations modify, for the purposes of Part 2 of the Act, in respect of a section 257 HMO—

- the definition of “person having control” (*regulations 3 and 9*);
- the matters about which a local housing authority must satisfy itself when deciding whether or not to grant a licence (*regulations 4 and 5*);
- the licence conditions (*regulations 6 and 11*);
- the person in respect of whom a rent repayment order may be made (*regulation 7*); and
- the circumstances when a notice under section 21 of the Housing Act 1988 may be served (*regulation 8*).

These regulations also modify section 139 of the Act in respect of the service of overcrowding notices in respect of section 257 HMOs (*regulation 11*).

The Regulations also make transitional provisions in respect of section 257 HMOs which were previously registered in a registration scheme under Part 11 of the Housing Act 1985 (*regulation 13*). Part 11 of the Act was repealed by the Housing Act 2004 (Commencement No 5 and Transitional Provisions and Savings) (England) Order 2006 (*SI 2006/1060*) on 6th April 2006 in respect of all HMOs other than section 257 HMOs. That Order provided that the repeal of Part 11 of the Housing Act 1985 would take effect in respect of a building or a part of a building which is both a section 257 HMO and a house in multiple occupation for the purpose of Part 11 of the Housing Act 1985 on the date on which regulations made under section 61(5) come into force.

Nothing in these Regulations affects a local authority’s licensing functions under Part 2 of the Act in relation to a flat that is situated within a section 257 HMO.

A full regulatory impact assessment on the statutory instruments to supplement the provisions of the Act in relation to the licensing of HMOs and the selective licensing of other private rented accommodation and management orders (Parts 2, 3 and Chapter 1 of Part 4 of the Act) was produced in February 2006 and is available from the Licensing Branch, Department for Communities and Local Government, Eland House, Bressenden Place, London SW1E 5DU, telephone 0207 944 3567, or email licensing@communities.gsi.gov.uk.