

**EXPLANATORY MEMORANDUM TO  
THE HOUSES IN MULTIPLE OCCUPATION (MANAGEMENT)  
(ENGLAND) REGULATIONS 2009**

**2009 No. 724**

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

2. **Purpose of the instrument**

The Management of Houses in Multiple Occupation (England) Regulations 2006 and the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 require the manager of a house in multiple occupation (“HMO”) to supply to the local housing authority, on request, the latest gas appliance test certificate relevant to the testing by a “recognised engineer” of any gas appliance at the HMO. Under those Regulations a “recognised engineer” is an engineer recognised by the Council of Registered Gas Installers as being competent to undertake such testing. This instrument replaces the definition of “recognised engineer” in those Regulations. The new definition refers to an engineer who is approved under regulation 3 of the Gas Safety (Installation and Use) Regulations 1998.

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

None

4. **Legislative Context**

4.1 Part 2 of the Housing Act 2004 (“the Act”) introduced licensing of HMOs. Sections 254 to 257 the Act define "house in multiple occupation". Section 61 of the Act requires every HMO to which Part 2 of the Act applies to be licensed under Part 2, unless a temporary exemption notice is in force in relation to it under section 62 of the Act, or an interim or final management order is in force in relation to it under Chapter 1 of Part 4 of the Act. A licence authorises occupation of the HMO concerned by no more than a maximum number of households or persons specified in the licence.

4.2 Under Section 234 of the Act the appropriate national authority may make regulations that make provision for the purpose of ensuring that, in respect of every HMO of a description specified in the regulations, there are satisfactory management arrangements and satisfactory standards of management are observed. The Secretary of State is empowered to make such regulations in England (section 261 of the Act). The Secretary of State has made Regulations under section 234 of the Act on two occasions:

- The Management of Houses in Multiple Occupation (England) Regulations 2006 (SI 2006/372) and
- The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 (SI 2007/1903).

## **5. Territorial Extent and Application**

This instrument applies to England.

## **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**

7.1 The existing HMO management Regulations (SI 2006/372 and SI 2007/1903) contain a requirement that a manager of an HMO must supply to the local housing authority, within 7 days of receiving a request in writing from the authority, the latest gas appliance test certificate the manager has received in relation to the testing of any gas appliance at the HMO by a recognised engineer. Under those Regulations a recognised engineer is defined as an engineer recognised by the Council of Registered Gas Installers (“CORGI”) as being competent to undertake such testing.

7.2 Under regulation 3 of the Gas Safety (Installation and Use) Regulations 1998 (“the 1998 Regulations”), no-one may carry out any work in relation to a gas fitting or gas storage vessel unless that person is competent to do so. No employer shall allow any of his employees to carry out any work in relation to a gas fitting or service pipework, and no self-employed person shall carry out any such work, unless the employer or self-employed person is a member of a class of persons approved for the time being by the Health and Safety Executive. An approval must be in writing and notice of it shall be given to such persons and in such manner as the Health and Safety Executive considers appropriate.

7.3 The Health and Safety Executive decided to set up a registration scheme under which any person who met standards set by HSE could be registered, so that a person who was registered was automatically approved for the purposes of regulation 3. HSE appointed CORGI to administer that registration scheme. However, from 1st April 2009 the scheme administered by CORGI will be replaced by a new scheme called the “Gas Safe Register” From that date, a person will only be approved under regulation 3 of the 1998 Regulations if registered on the new “Gas Safe Register” which will be administered by Capita Group plc. Under that scheme HSE again set the standards that need to be met, and Capita Group plc will only register a person who meets those standards. A person will no longer be approved for the purposes of regulation 3 if registered by CORGI.

7.4 This instrument gives effect to the new arrangements by replacing the references to engineers having to be recognised by CORGI with references to engineers having to be approved under regulation 3 of the 1998 Regulations.

7.5 There are no wider policy implications.

- ***Consolidation***

7.4 The Department has no plans to make regulations consolidating the amendments.

## **8. Consultation outcome**

No consultation has been conducted as this instrument is required in order to give effect to the change described in paragraph 7.2.

## **9. Guidance**

The Department will draw the change to the attention of local housing authorities and landlords' associations. The Health and Safety Executive are running their own publicity campaign, which includes information for landlords and tenants.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is minimal.

10.2 The impact on the public sector is minimal.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 No action is being taken to minimise the impact of the requirements on firms employing up to 20 people.

11.3 The reason for this is that the gas safety requirements apply regardless of the size of the business.

## **12. Monitoring & review**

As an amending instrument, this will not be subject to separate monitoring and review.

### **13. Contact**

Tom Quinlan at Communities and Local Government Tel: 020 7944 3567 or email: [Tom.Quinlan@communities.gsi.gov.uk](mailto:Tom.Quinlan@communities.gsi.gov.uk) can answer any queries regarding the instrument.