EXPLANATORY MEMORANDUM TO

THE SELECTIVE LICENSING OF HOUSES (ADDITIONAL CONDITIONS) (ENGLAND) ORDER 2015

2015 No. [XXXX]

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 This instrument specifies conditions which if a local authority considers are satisfied in relation to an area, the local authority is able to designate the area as subject to selective licensing. Such a designation would have the effect of requiring landlords of private rented sector properties in the designated area to obtain a licence for their property. The instrument sets out that for an area to be designated as subject to selective licensing, the area must contain a high proportion of properties in the private rented sector, in relation to the total housing accommodation in that area, and that these properties must be occupied under assured tenancies or licenses to occupy. Further, it requires that one or more of the four additional sets of conditions must be satisfied. These relate to poor property conditions, current or recent experience of large amounts of inward migration, areas which have a high level of deprivation, or areas which have high levels of crime. The conditions specified in this Order are in addition to the two sets of general conditions under which an area can already be designated as subject to selective licensing, as contained in section 80 of the Housing Act 2004 ("the 2004 Act").

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

3.1 None

4. Legislative Context

4.1 Part 3 of the 2004 Act deals with the selective licensing of residential accommodation (other than houses in multiple occupation which are required to be licensed under Part 2 of the 2004 Act). Section 80 of the 2004 Act provides two general sets of conditions, relating to low housing demand and anti-social behaviour, where if one of these sets of conditions is met in relation to an area, the area can be designated as subject to selective licensing. This Order sets out that an area can also be designated as subject to selective licensing if the area contains a high proportion of properties in the private rented sector, in relation to the total housing accommodation in that area, and these properties are occupied under assured tenancies or licences to occupy. Further, it requires that one or more of the four additional sets of conditions must be satisfied. These relate to poor property conditions, current or recent experience of large amounts of inward migration, areas which have a high level of deprivation, or areas which have high levels

of crime. The Order therefore broadens the criteria by which a local authority can designate an area as subject to selective licensing.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 Brandon Lewis, Minister of State for Housing and Planning, has made the following statement regarding Human Rights:

In my view the provisions of the Selective Licensing of Houses (Additional Conditions) (England) Order 2015 are compatible with the Convention rights.

7. Policy background

7.1 Under Part 3 of the Housing Act 2004 local housing authorities can designate parts of their area as subject to selective licensing. Where such a designation is made, privately rented dwellings in that area are required to be licensed by the local housing authority.

7.2 Currently a designation may only be made if the area is either suffering from or likely to be an area of low housing demand or if the area is experiencing significant and persistent anti- social behaviour. A designation can last for up to 5 years. Before making a designation the local housing authority must consult with people likely to be affected by it, e.g. local landlords, tenants and owner occupiers. A designation cannot be made unless it is either confirmed by the Secretary of State or it falls within the terms of any general approval issued by the Secretary of State and which is in force at the time the designation is made.

7.3 Licensing can play an important role when it is strictly focused on discrete areas with specific problems. When licensing was introduced, the policy intention was that it should be targeted at specific and strictly defined parts of a local authority area with acute problems associated with low housing demand and anti-social behaviour, as it will often be the case that such problems do not span an entire local authority area. However, the private rented sector has doubled in size over the past ten years and is now larger than the social rented sector. In addition, the demographic profile of renters is changing and the sector now houses a much wider cross section of society than previously. While the Government wants to ensure that good landlords are not adversely impacted by a blanket approach to licensing, it is also keen to ensure that local authorities have the right tools to help improve areas with relatively large numbers of privately rented properties and which are characterised by poor property conditions, or which have current or recent experience of large amounts of inward migration, or which have a high level of deprivation, or high

levels of crime. Widening the criteria in this way will help to enable local authorities to target enforcement action in areas where it is most needed. The purpose of the Order is, therefore, to extend the grounds on which a designation can be made to help local housing authorities and other agencies address problems in areas which have high numbers of poor quality privately rented dwellings; in areas which are experiencing or have recently experienced a large amount of inward migration, those areas which are amongst the most deprived in the country, and areas where the crime levels are high.

8. Consultation outcome

8.1 A discussion paper "Review of Property Conditions in the Private Rented Sector" was published in February 2014 (www.gov.uk/government/publications/review-of-property-conditions-in-the-private-rented-sector). Amongst other things, it invited views on how to make licensing more effective while helping to ensure that good landlords were not adversely affected. It was clear from many of the responses that there was a need to extend the grounds on which a selective licensing scheme could be made and thereby help ensure that schemes are targeted more closely at areas with particularly complex problems.

9. Guidance

9.1 We will be publishing Guidance to local authorities on the process and conditions for making a selective licensing scheme.

10. Impact

10.1 Where a local authority decides, following consultation, to designate an area as subject to selective licensing, there will be an impact on landlords because they will be required to obtain a licence on payment of a fee. Landlords may decide to pass on the cost of that fee to tenants through higher rents.

10.2 The making of a designation is at the discretion of a local housing authority and such a designation will be self-funding through the licence fees that the authority will be able to charge.

10.3 An Impact Assessment has been prepared and will be submitted to the Regulatory Policy Committee shortly. A copy of this will be available from the Department for Communities and Local Government website (www.gov.uk/dclg) or by contacting Jonathan Bramhall on 0303 444 1803.

11. Regulating small business

11.1 The legislation applies to small businesses, as most landlords in the private rented sector are individuals. The legislation will help landlords who comply with their

obligations avoid the impact of licensing because it enables local authorities to target enforcement action where it is most needed.

12. Monitoring & review

12.1 We will monitor the use of the new conditions to ensure they are being used properly by requiring designations that do not fall within the terms of the general approval to be referred to the Secretary of State for approval. There will be a review of the effectiveness of the new conditions for making a designation in 2017.

13. Contact

Jonathan Bramhall at the Department for Communities & Local Government Tel: 0303 444 1803 or email: jonathan.bramhall@communities.gsi.gov.uk can answer any queries regarding the instrument.