EXPLANATORY MEMORANDUM TO

THE HOUSES IN MULTIPLE OCCUPATION (CODE OF PRACTICE) REGULATIONS (NORTHERN IRELAND) 2019 SR 2019 No. 32

1. Introduction.

1.1 This Explanatory Memorandum has been prepared by the Department for Communities and makes 8 Statutory Rules by the negative resolution procedure under powers conferred as a consequence of the Houses in Multiple Occupation Act (Northern Ireland) 2016. The final stage of the Bill which these Regulations will enact was approved by the NI Executive on 15 March 2016.

2. Purpose

2.1 These Regulations will assist councils to operate a licensing scheme to enable better regulation of houses in multiple occupation to be supported by guidance and a landlords approved Code of Practice. The Regulations will provide further clarity on the requirements of the licensing scheme which will also ensure that management control of HMOs will be strengthened which will lead to better standards and housing conditions with improved quality of life particularly for tenants.

2.2 The following provides the detail for each Statutory Rule:

The Houses in Multiple Occupation (Living Accommodation Standard) Regulations (Northern Ireland) 2019

Provides clarity around the suitability of the living accommodation for multiple occupation which sets out the criteria that councils must consider which are the minimum standards expected**:** Section 8(2) (e) of the Houses in Multiple Occupation Act (Northern Ireland) 2016 as read with section 13, states that councils may only grant a licence if they are satisfied that the accommodation is suitable for use as an HMO for the specified maximum number of persons or could be made so by including conditions in the licence.

The Houses in Multiple Occupation (Space Standard) Regulations (Northern Ireland) 2019

These Regulations specify the manner in which the floor area of a room is to be determined for the purposes of section 43 of the Houses in Multiple Occupation Act (Northern Ireland) 2016. These relate to the amount of floor space there is in the property for each person resident within it. The reason for the inclusion of a space standard in legislation is to ensure that only spaces that are suitable to sleep and live in are included in any calculation of living space.

The Houses in Multiple Occupation (Hazards) Regulations (Northern Ireland) 2019

Section 54 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 defines a hazard in an HMO as a risk of harm to the health and safety of any actual or potential occupier of an HMO. Regulation 2 and the Schedule prescribe descriptions of hazards with reference to the occurrence of

matters or circumstances listed in the Schedule. Prescribed potential hazards provide landlords with standards required and expected of them so there can be no confusion in the application of the standards.

The Houses in Multiple Occupation (Specified Educational Establishments) Regulations (Northern Ireland) 2019

Schedule 1 to the Houses in Multiple Occupation Act (Northern Ireland) 2016 lists types of building that are not houses in multiple occupation. For the purposes of the HMO Act, HMOs are defined in Section 1 of the Act. Paragraph 5 of Schedule 1 to the HMO Act refers to any building which is occupied solely or principally by persons who occupy it for the purpose of undertaking a full time course of further or higher education at a specified educational establishment, or at an educational establishment of a specified description, and where the person managing or controlling the building is the education establishment in question, or a specified person, or a person of a specified description.

Where a building is managed or controlled by an educational establishment which is listed in these Regulations and that educational establishment is a member of a recognised specified accreditation referred to in Regulation 5, then that building is not an HMO for the purposes of the HMO Act.

A copy of the ANUK/UNIPOL Code of Standards for Larger Residential Developments for Student Accommodation Managed and Controlled by Educational Establishments dated 28th August 2008 can be obtained from the National Codes Administrator, 155-157 Woodhouse Lane, Leeds, LS2 3ED, by emailing NationalCodes@unipol.org.uk or online at www.nationalcode.org or www.anuk.org.uk.

A copy of Universities UK / Guild HE Code of Practice for the Management of Student Housing dated 17th August 2010 can be obtained from Universities UK, Woburn House, 20 Tavistock Square, London, WC1H 9HQ, by emailing info@universitiesuk.ac.uk or online at www.universitiesuk.ac.uk.

The Houses in Multiple Occupation (Notice of Application) Regulations (Northern Ireland) 2019

These Regulations make provision about the procedural requirements relating to an application for an HMO licence, in particular the requirements for the giving of notice of the making of applications for an HMO licence. Regulations 2 and 3 describe the requirements for an applicant to publish a notice of application for an HMO licence. Regulation 4 requires the Council to publish and serve the notice of application. Regulation 5 provides for the Council to make exceptions from the requirement to publish the notice. Regulation 6 provides for representations to be made in response to the notice. Regulation 7 describes the consequences of failing to comply with the requirements of the regulations.

The Houses in Multiple Occupation (Code of Practice) Regulations (Northern Ireland) 2019

Section 63(1) of the Houses in Multiple Occupation Act (Northern Ireland) 2016 provides that the Department may make Regulations approving a Code of Practice for the management of Houses of Multiple Occupancy (“HMOs”).

Section 63(6) of the HMO Act provides that the Department may approve such a code only if it has been satisfied that the code has been published in a manner that the Department considers appropriate for the purposes of bringing the Code to the attention of those likely to be affected by it or that arrangements have been made for the Code to be so published.

Section 63(7) of the HMO Act requires the Department to consult with persons involved in the management of HMOs and persons occupying HMOs before approving a Code.

These Regulations duly approve a Code of Practice entitled "The Houses in Multiple Occupation Act (Northern Ireland) 2016: Code of Practice for the Management of Houses in Multiple Occupation".

The Houses in Multiple Occupation (Fees) Regulations (Northern Ireland) 2019

These Regulations set the maximum fee per person the council may charge for an application for an HMO licence. They also set the maximum amount of fee the council may charge for supplying:—

(a) a certified copy of an entry relating to an HMO to any person who falls within section 62(9) of the HMO Act; and

(b) a certified copy of its register, or of an extract from it, to any statutory authority.

As the licensing scheme is self-sustaining the fixing of fees takes account of all costs incurred by the council carrying out its functions under the HMO Act.

The Houses in Multiple Occupation (Commencement and Transitional Provisions) Order (Northern Ireland) 2019

This Order brings into operation the Houses in Multiple Occupation Act (Northern Ireland) 2016 in so far as it is not already in operation and makes transitional provisions for houses in multiple occupation, registered in accordance with a registration scheme under Article 75B of The Housing (Northern Ireland) Order 1992, to be treated as being licensed under the HMO Act.

3. Discussion and consultation

3.1 Building on the provisions in the Houses in Multiple Occupation Act (Northern Ireland) 2016, which was consulted on extensively with all relevant stakeholders the Department for Communities has undertaken further consultation and stakeholder engagement with councils, Northern Ireland Housing Executive, landlords and other stakeholders in order to complete the Regulations and to make them aware of the changes. Correspondence from the majority of stakeholders were supportive of the regulations.

4. Human Rights and Equality Impact

4.1 The Regulations do not engage any Convention rights. An Equality Impact Assessment was carried out on this aspect of the Houses in Multiple Occupation Act (Northern Ireland) 2016. Consideration has again been given to compliance with section 75 of the Northern Ireland Act 1998 and no further equality issues relating to designation have been identified.

5. Regulatory Impact Assessment

5.1 The purpose of the impact assessment is to consider the impact which the implementation of the Regulations introducing a mandatory HMO licensing scheme may have on business and the ability of those working in the sector to carry out their business. Landlords will have to bear the licensing costs, however, it is considered that that is a proportionate cost, bearing in mind the aims of licensing. It is considered that the introduction of licensing will drive up standards in terms of service provision.

5.2 The Regulations will not have a direct or indirect impact on businesses. The majority of landlords in Northern Ireland operate on a small scale, evidenced by research undertaken by the University of Ulster in 2011 on behalf of the Northern Ireland Housing Executive which indicates that approximately 70% of responses were small scale landlords owning 5 properties or less. The introduction of a new HMO regulatory regime will only impact those landlords that are currently, or intending to in the future, to operate an HMO. Therefore the proposed new regulatory regime is proportionate and should have no major impact on small businesses. We are committed to monitoring the system as it is implemented and we intend to carry out a review at the end of a 24 month period. This should provide more quantified costs and benefits

6. Guidance and Code of Practice

6.1 The Regulations will be supported by guidance for councils to operate the new licensing scheme and a landlords approved Code of Practice.

7. Additional Information

7.1 Not applicable