EXPLANATORY MEMORANDUM TO

THE HOUSES IN MULTIPLE OCCUPATION (SPECIFIED EDUCATIONAL ESTABLISHMENTS) (ENGLAND) (No. 2) REGULATIONS 2006
No. [2280]

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

2. Description

2.1 The Regulations specify certain educational establishments managing or having control of buildings which are not houses in multiple occupation (HMOs) for the purpose of the Housing Act 2004 ("the Act") (excluding Part 1 of the Act, which deals with housing conditions). They replace the Houses in Multiple Occupation (Specified Educational Establishments) (England) Regulations 2006 (S.I. No 2006/674) ("the existing Regulations") which were made for the same purpose. The effect is to increase the number of educational establishments which are specified.

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

3.1 None.

4. Legislative Background

4.1 Schedule 14 to the Act describes the buildings which are not houses in multiple occupation for any purpose of the Act other than those of Part 1. This includes in paragraph 4 of that Schedule 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 an educational establishment specified by the appropriate national authority, or at an establishment of a description specified by the appropriate national authority, and where the person managing or having control of it is the educational establishment in question or a person or a person of a description specified by the appropriate national authority. The consequence of a building not being a house in multiple occupation is that it will not be subject to mandatory licensing by the local housing authority for the district in which it is located under part 2 of the Act.

4.2 The Regulations specify certain educational establishments for the purposes of paragraph 4 of Schedule 14. As well as being listed in the Schedule to the Regulations, the establishments also have to be listed in the Schedules included with the Codes of Practice mentioned in articles 2(2)(a) and (b) of the Housing (Approval of Codes of Management Practice) (Student Accommodation) (England) Order 2006 (S.I. No. 2006/646). Since the existing Regulations were made the lists of buildings in those schedules have been added to so as to include more buildings that are managed in conformity with the relevant Code. Some of these belong to other educational establishments not previously mentioned in the Schedule to the existing Regulations.

4.3 By virtue of section 261(1) of the Act the Secretary of State is the appropriate national authority for statutory instruments in relation to England.

5. Extent

5.1 This instrument applies to England .

6. European Convention on Human Rights

6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Student housing was a significant issue in debates during the Act's passage through Parliament. Almost two thirds of all students live in the private rented sector, indeed many continue to rent after university However, just over a third of students are thought to live in purpose built accommodation provided by the university or a commercial provider. If HMOs can be difficult to manage then student halls of residence offer management challenges of even greater complexity. That is why a code of management practice was seen to be needed well before changes to the Housing Bill provided for the approval of codes of practice for student accommodation. However, the power in paragraph 4 of Schedule 14 to the Act to except student accommodation from the definition of the Act recognises that a balance needs to be struck. Whilst there is a clear need to improve the standards in student accommodation, this has to be balanced with the additional costs that would fall to higher education establishments were they to be required to license all their halls of residence and other accommodation provided by the establishment.

7.2 The 2 Codes of Practice referred to in paragraph 4.2 were approved by Housing (Approval of Codes of Management Practice) (Student Accommodation) (England) Order 2006 (S.I. No. 2006/646) and are published on the respective websites of Universities UK (UUK), the Accreditation Network UK (ANUK) and Unipol. Each contains a schedule listing the properties that are being managed in compliance with the Code. The lists have been updated on 1st August 2006. No changes have been made to the standards of conduct and practice in the Codes themselves.

7.3 It is expected that more and more universities and other higher educational establishments will seek to be exempted from licensing. The lists of buildings in both the Regulations and the Codes are therefore to be reviewed regularly. This instrument brings up to date the list of establishments whose buildings are now managed in compliance with one of the Codes.

7.4 Paper copies of the Codes will be made available by the code writers on request. The Codes were lodged in both Houses of Parliament in February 2006.

8. Impact

8.1 No regulatory impact assessment has been provided as the impact on the public sector of complying with a code of practice is estimated to be very significantly less than £5m.Where an educational establishment agrees to manage student

accommodation in compliance with either Code of Practice such accommodation so managed will be excepted from the HMO definition and therefore will not be subject to mandatory licensing under Part 2 of the Act. The total number of buildings now listed as complying with one or other Code is 4,930, an increase of about 20% since February 2006.

8.2 In any one year the number of students (at whatever stage in their studies) that are accommodated in University maintained property is in the region of 300,000. The number of students accommodated in privately maintained halls of residence is in the region of 100,000. This gives a total of 400,000 students or bed spaces. If all this accommodation had to be licensed at anywhere near the indicative maximum licensing fee of £180 for 5 years (or £36 per year) the total cost could be £14.4m. But for property that is managed and controlled by a higher educational establishment the costs of complying with a Code of Practice are estimated at only £0.70 per bed space. So for 300,000 bed spaces the total cost would be only £210,000.

9. Contact

9.1 John Daniels of the Department for Communities and Local Government, Tel: 020 7944 3553 or e-mail: John.daniels@communities.gsi.gov.uk can answer any queries regarding the instrument.