EXPLANATORY MEMORANDUM TO

THE STUDENT ACCOMMODATION (CODES OF MANAGEMENT PRACTICE AND SPECIFIED EDUCATIONAL ESTABLISHMENTS) (ENGLAND) REGULATIONS 2024

2024 No. 947

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Matthew Pennycook, Minister of State for Housing and Planning at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Guy Horsington, Deputy Director for the Private Rented Sector at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Amy Barnett at the Ministry of Housing, Communities and Local Government at email: Amy.Barnett@levellingup.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Student Accommodation (Codes of Management Practice and Specified Educational Establishments) (England) Regulations 2024 ("the Regulations") approves a code of practice regarding the management of living accommodation that is managed or controlled by specified educational establishments and is occupied solely or principally by full-time students of further or higher education. This accommodation is excepted from licensing as houses in multiple occupation ("HMOs").

4.2 The Regulations revoke the two previous Orders (S.I. 2019/884 and 2022/198), made under sections 233 and 250 of the Housing Act 2004, thereby withdrawing approval of the codes listed in them, subject to savings provisions. The Regulations save the approval of two of those codes of practice approved under them. Approval of the final code of practice is saved only until Regulation 4 of these Regulations comes into force. The Regulations also amend the provision relating to membership of codes of practice and the list of educational establishments in the Schedule to the Houses in Multiple Occupation (Specified Educational Establishments) (England) Regulations 2019.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. Policy Context

What is being done and why?

5.1 The Housing Act 2004 ("the 2004 Act") introduced a licensing regime for HMOs to raise the standards of management of such properties. Maintaining standards in purpose-built student accommodation ("PBSA"), was a significant issue in the debates during the 2004 Act's passage through Parliament as, while they would meet the criteria to be defined as an HMO, their size and complexity meant they offered greater management challenges than smaller HMOs. In light of this, PBSA that is managed or controlled by an educational establishment listed in regulations is in the category of buildings that is excepted from HMO licensing requirements provided that they are a member of an approved code.

5.2 The 2004 Act gave the Secretary of State a power to approve a code of practice regarding the management of houses in multiple occupation or of excepted accommodation. Since it was considered a type of "excepted accommodation", this power covered approval of a code for living accommodation managed or controlled by specified educational establishments and occupied solely or principally by full-time students of further or higher education.

5.3 The first two codes of practice for PBSA managed by specified educational establishments were approved in 2006. One of the codes was developed by a consortium made up of Accreditation Network UK (ANUK), the National Union of Students (NUS) and Unipol. The other code was developed by Universities UK (UUK).

5.4 Since 2006, the ANUK/Unipol Code has been reviewed and approved twice, first in 2008 (S.I. 2008/2345) and then in 2019 (S.I. 209/884). In 2022, ANUK/Unipol made a decision that a further review of the code was necessary to improve the amenities, support and standards for students. The review began the following year with the aim of offering better provision for students with disabilities, mandating mental health crisis training for PBSA staff, improving fire safety standards and clarifying arrangements around the late opening of new buildings. Details of the consultation undertaken in relation to the revised ANUK/Unipol Code ('the revised Code') approved by these Regulations are given in paragraph 7 below.

What was the previous policy, how is this different?

5.5 This Statutory Instrument approves a revised code of practice for student accommodation managed by specified educational establishments. The revised Code introduces new requirements in relation to provision for students with disabilities, mental health crisis training for PBSA staff, fire safety and the late opening of new buildings.

5.6 Membership of the code continues to be voluntary but where an educational establishment is not a member of this code (or that provided by UUK), they will be subject to mandatory HMO licensing.

6. Legislative and Legal Context

How has the law changed?

6.1 The 2004 Act introduced a licensing regime for houses in multiple occupation (HMO) to raise the standards of management of such properties. HMOs are defined in section 254 of the Act. In broad terms, they are buildings (or parts of buildings) occupied as a sole or main residence by more than two persons who do not form a single household. The precise conditions for a building or part of a building to qualify as an HMO are set out in subsections (1) to (5) of section 254. Under Part 2 of the Act, HMOs are subject to a licensing regime overseen by local housing authorities.

6.2 Under Section 233 of the 2004 Act (subsection (1)), the "appropriate national authority" (for England, the Secretary of State) may by order approve a code of practice (whether prepared by that authority or another person) laying down standards of conduct and practice to be followed with regard to the management of HMOs or of excepted accommodation. Excepted accommodation is defined in subsection (6) as being a description of living accommodation falling within any provision of Schedule 14 and specified in such an order.

6.3 Schedule 14 lists buildings which are not HMOs for the purposes of the 2004 Act (apart from Part 1, which deals with housing conditions). Paragraph 4 of Schedule 14 refers to any building occupied by persons for the purpose of undertaking full-time further or higher education courses at specified educational establishments, where the person managing or having control of that building is the educational establishment in question or a specified person or a person of a specified description. The Houses in Multiple Occupation (Specified Educational Establishments) (England) Regulations 2019 provides for the conditions that must be met for an educational establishment to be 'specified' for the purpose of paragraph 4 of Schedule 14.

6.4 The Housing (Approval of Codes of Management Practice) (Student Accommodation) (England) Order 2019 Order approves two codes of practice for PBSA managed by educational establishments. One of these codes, the 'Accreditation Network UK/Unipol Code of Standards for larger Developments for Student Accommodation Managed and Controlled by Educational Establishments' (ANUK/Unipol Code), was reviewed in 2023 to improve amenity, support and standards for students in areas such as provision for students with disabilities, mental health crisis training for PBSA staff, fire safety and the late opening of new buildings.

6.5 These Regulations approve the revised ANUK/Unipol Code ('the revised Code') (Regulation 3) and revoke the two previous Orders (S.I. 2019/884 and 2022/198 – 'the 2019 Order' and 'the 2022 Order'), made under section 233, but saves the approval of two of the codes of practice approved under them which remain current. By virtue of these Regulations, there are now three codes of practice which are currently approved under section 233 of the 2004 Act in relation to the management of student living accommodation comprised in buildings that fall within paragraph 4 of Schedule 14.

6.6 These are:

- The Accreditation Network UK/Unipol Code of Standards for larger Developments for Student Accommodation Managed and Controlled by Educational Establishments dated 05 September 2024 and approved by these Regulations.
- The Accreditation Network UK/Unipol Code of Standards for Larger Developments for Student Accommodation Not Managed and Controlled by

Educational Establishments dated 28 February 2022 and approved by the 2022 Order (with approval saved by these Regulations); and

- The Universities UK/Guild HE Code of Practice for the Management of Student Housing dated 1 May 2019 and approved by the 2019 Order (with approval saved by these Regulations);

Why was this approach taken to change the law?

6.7 Under Section 233 of the 2004 Act (subsection (1)), the "appropriate national authority" (for England, the Secretary of State) may by order approve a code of practice laying down standards of conduct and practice to be followed with regard to the management of HMOs or of excepted accommodation. These Regulations approve a revised code of practice for the management of excepted accommodation under that section of the 2004 Act.

7. Consultation

Summary of consultation outcome and methodology

7.1 Under section 233(2) of the Act, the Secretary of State may only approve a code of practice if they have taken reasonable steps to consult persons involved in the management of premises of these kinds, persons occupying such premises, or persons whom the authority considers represent the interests of such persons. The Ministry of Housing, Communities and Local Government (MHCLG) discussed and agreed with Unipol the proposed changes to the ANUK/Unipol Code and the consultation process, which Unipol would be best placed to lead on. A Review Group, consisting of members of the ANUK/Unipol Code, sector bodies and the NUS, then began considering and refining the initial set of proposed changes for wider consultation.

7.2 A nine-week public consultation took place from 19 July 2023 to 21 September 2023 via an online survey and an invitation to the following organisations to respond:

- National Bodies: Universities UK(UUK), GuildHE, UK Council for International Student Affairs (UKCISA), Higher Education Policy Institute (HEPI), Office for Students (OfS), Universities and Colleges Admissions Service (UCAS), Chartered Institute of Environmental Health (CIEH), Local Government Association (LGA)
- Educational Sector Bodies: College and University Business Officers (CUBO), Association of University Directors of Estates (AUDE), The Student Services Organisation (AMOSSHE), Association of Student Residential Accommodation (ASRA)
- Students Unions (NUS and their affiliates) and code members (all UUK and ANUK/Unipol code members).

7.3 The consultation received 21 responses from code members and representative bodies. The responses were first considered by the Review Group before being reviewed on 6 November 2023, by the National Codes Consortium, which has overall control of the codes. The revisions to the ANUK/Unipol Code were approved on 22 November 2023 by the National Codes Committee of Management whose membership is comprised of the Association of Colleges (AOC), AMOSSHE, ASRA, CIEH, CUBO, MHCLG, UUK, ANUK, NUS and Unipol Student Homes.

7.4 Before approving the revised code, MHCLG consulted further with UUK and the NUS (July 2024), as representatives of persons involved in the management of accommodation covered by the revised Code and persons occupying such

accommodation respectively, to confirm their agreement with the earlier consultation and the revised code.

7.5 The revised Code will be published on the ANUK and Unipol websites with paper copies available on request, in line with the requirements of section 233(3) of the 2004 Act. Those managing student accommodation will be required to provide potential or existing student tenants with information about the existence and operation of the revised Code, through the letting and marketing materials and other tenant information.

8. Applicable Guidance

8.1 The Secretary of State does not consider that there is a need for Government Guidance as to the effect of the Regulations. Membership of the ANUK/Unipol Code is voluntary and ANUK/Unipol are responsible for ensuring that members of their code have the information necessary to ensure their compliance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the SI has no, or no significant, impact on businesses, charities and voluntary bodies.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies of approving the revised ANUK/Unipol Code. The additional costs to educational establishments of complying with the additional requirements in the revised Code will be negligible.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because the impact of approving the revised Code. Complying with an approved code of practice was estimated to be significantly less than £5 million when the codes were first approved in February 2006 and this remains the case.

9.5 The purpose of developing codes of practice is to reduce the regulatory impact of licensing on student accommodation. By agreeing to comply with a code of practice, student accommodation managed by a specified educational establishment will be excepted from the HMO definition and therefore will not be subject to mandatory licensing under Part 2 of the 2004 Act. The impact on local authorities who would otherwise have had to carry out inspections of those student properties for the purpose of HMO mandatory licensing, will be significantly reduced.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Department monitors the work of the ANUK/Unipol through its governance arrangements with ANUK/Unipol and its membership of the Committee of Management. ANUK/Unipol also submit annual reports to the Department on the operation of their code of practice.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Matthew Pennycook has made the following statement:

"As the impact on the public sector of complying with an approved code of practice was estimated in 2006 to be significantly less than £5 million and still remains the case, carrying out a review would be disproportionate."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").