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STATUTORY INSTRUMENTS

2005 No. ///

HOUSING, ENGLAND

The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2XXX

<i>Made</i> - - - -	2XXX
<i>Laid before Parliament</i>	2XXX
<i>Coming into force</i> - -	2XXX

The Secretary of State, in exercise of the powers conferred by section 55(3) of the Housing Act 2004(a) makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2005 and shall come into force on XXXX 2XXX.

(2) This Order applies to any HMO(b) in England other than a converted block of flats to which section 257 of the Act applies.

Interpretation

2. In this Order—

- (a) “the Act” means the Housing Act 2004;
- (b) “basement” in relation to an HMO means a storey that is below the ground floor; and
- (c) “business premises” means premises, or any part of premises, which are not, or are not used in connection with or as an integral part of, living accommodation.

Description of HMOs prescribed by the Secretary of State

3.—(1) Subject to paragraph 3, an HMO is of a prescribed description for the purpose of section 55(2)(a) of the Act where, at any time from the coming into force of this Order, it satisfies or has satisfied the conditions described in paragraph (2).

(2) The conditions referred to in paragraph (1) are that—

- (a) the HMO or any part of it comprises three storeys or more;
- (b) it is occupied by five or more persons; and

(a) 2004 c. 34. The powers conferred by section 55(3) of the Act are exercisable, as respects England, by the Secretary of State and, as respects Wales, by the National Assembly for Wales. See the definition of the appropriate national authority in section 261(1).

(b) For the meaning of HMO see sections 77 and 254 to 259 of the Act.

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- (c) it is occupied by persons living in two or more single households.
- (3) The following storeys shall be taken into account when calculating whether the HMO or any part of it comprises three storeys or more—
- (a) any basement if—
 - (i) it is used wholly or partly as living accommodation;
 - (ii) it has been constructed, converted or adapted for use wholly or partly as living accommodation;
 - (iii) it is being used in connection with, and as an integral part of, the HMO; or
 - (iv) it is the only or principal entry into the HMO from the street.
 - (b) any attic if—
 - (i) it is used wholly or partly as living accommodation;
 - (ii) it has been constructed, converted or adapted for use wholly or partly as living accommodation, or
 - (iii) it is being used in connection with, and as an integral part of, the HMO;
 - (c) where the living accommodation is situated in a part of a building above business premises, each storey comprising the business premises;
 - (d) where the living accommodation is situated in a part of a building below business premises, each storey comprising the business premises;
 - (e) any mezzanine floor which is used wholly or mainly as, or in connection with, living accommodation; and
 - (f) any other storey that is used wholly or partly as living accommodation or in connection with, or as an integral part of, the HMO.

Signed by authority of the First Secretary of State *Name*

Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes descriptions of houses in multiple occupation (HMOs) to which Part 2 of the Housing Act 2004 (c. 34) (“the Act”) applies. Under section 61(1) of the Act every HMO to which Part 2 of the Act applies must be licensed unless it is subject to either a temporary exemption notice under section 62 of the Act or an interim or final management order under chapter 1 of part 4 of the Act.

Article 3(2) sets out the conditions HMOs must satisfy in order to be of a prescribed description. If at any time after the coming into force of the Order the HMO satisfies or has satisfied (even if it no longer satisfies) the conditions it will be an HMO of a prescribed description.

Article 3(3) lists the storeys of an HMO that are to be taken into account when calculating whether the HMO or any part of it comprises three storeys or more.

A full regulatory impact assessment of the effect that this Order will have on the costs of business is available from the Licensing Branch, the Office of the Deputy Prime Minister 2/G9 Eland House, Bressenden Place, London, SW1E 5DU (telephone 0207 944 3149, e mail licensing@odpm.gsi.gov.uk).

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STATUTORY INSTRUMENTS

2005 No. //

HOUSING, ENGLAND

The Licensing (HMOs and Other Houses) (Applications, Standards, Publication of Designations and Keeping of Registers) Regulations 2XXX

<i>Made</i> - - - -	2XXX
<i>Laid before Parliament</i>	2XXX
<i>Coming into force</i> - -	2XXX

The Secretary of State, in exercise of the powers conferred by sections 59(4), 60(6), 63(5), 65(3), 83(2) and (4), 84(6), 87(5), 232(7), 258(2)(b), 259(2)(c) and paragraphs 3 and 6(1)(c) to Schedule 14 of the Housing Act 2004(a) makes the following Order:

Citation, commencement and application

1.—(1) These Regulations may be cited as The Licensing (HMOs and Other Houses) (Applications, Standards, Publication of Designations and Keeping of Registers) Regulations 2005 and shall come into force on XXXX 2XXX.

(2) These Regulations apply to any HMO(b) in England other than—

- (a) a converted block of flats to which section 257 of the Act applies; and
- (b) an HMO where no rent is paid or other consideration given by any person occupying any unit of living accommodation within that HMO.

Interpretation

2. In these Regulations—

- (a) “the Act” means the Housing Act 2004;
- (b) “manager” means the person managing an HMO in respect of the repair, maintenance, cleanliness and good order of the house and facilities and equipment in it;

(a) 2004 (c 34). The powers conferred by section 55(3) of the Act are exercisable, as respects England, by the Secretary of State and, as respects Wales, by the National Assembly for Wales. See the definition of the appropriate national authority in section 261(1).

(b) For the meaning of HMO see sections 77 and 254 to 259 of the Act.

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Persons to be regarded as forming a single household for the purposes of section 254 of the Act

3.—(1) A person who lives in accommodation supplied to him by his employer or by a member of his employer's family is to be regarded as living in the same household as his employer for the purposes of section 254 of the Act only if he satisfies the following conditions—

- (a) he enters into a contract of employment in which part of the consideration for his work is that accommodation will be provided to him;
- (b) his employer or a member of his employer's family occupies the building or the same part of the building in which he occupies;
- (c) he does not pay any rent or other consideration (other than work of a type described in this regulation) to his employer for the living accommodation provided to him or his family; and
- (d) he is employed to carry out work of an exclusively domestic nature for his employer or a member of his employer's family.

(2) Where a person is to be regarded as living in the same household as his employer under paragraph (1) any member of that person's family living in the accommodation with him is to be regarded as living in the same household as him for the purposes of section 254 of the Act.

(3) For the purposes of paragraph (1) a person is to be regarded as employed irrespective of whether he obtained the employment through the services of an agent.

(4) For the purposes of paragraph (1)(d) a person who carries out the following or similar work for his employer is to be regarded as carrying out work of a domestic nature—

- (a) au pair;
- (b) nanny;
- (c) nurse;
- (d) carer;
- (e) governess;
- (f) servant, including maid, butler, cook or cleaner;
- (g) chauffeur;
- (h) gardener;
- (i) secretary; or
- (j) personal assistant.

(5) A person who occupies a house with his carer is to be regarded as forming a part of the household of his carer for the purposes of section 254 of the Act only if—

- (a) his carer is an adult placement carer approved under the Adult Placement Schemes (England) Regulations 2004(a); and
- (b) his carer provides care in his own home for not more than three service users under the terms of a scheme permitted by those regulations.

(6) For the purposes of paragraph (5) the terms "adult placement carer" and "service users" have the meanings to those expressions given in the regulations referred to in sub-paragraph (5)(a).

(7) A person is to be regarded as forming part of the household of his foster parent for the purposes of section 254 of the Act only if he is placed with a foster parent under the provisions of the Fostering Services Regulations 2002(b).

(a) 2004. SI 2004/2071.

(b) 2002. SI 2002/57.

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Persons treated as occupying premises as their only or main residence for the purposes of section 254 of the Act

4.—(1) The following persons are to be treated as occupying premises as their only or main residence for the purposes of section 254 of the Act—

- (a) a migrant worker or a seasonal worker—
 - (i) whose occupation of the premises is made partly in consideration of their employment within the United Kingdom, whether or not other charges are payable in respect of the accommodation; and
 - (ii) where the premises are provided by, or on behalf of his employer or an agent or employee of his employer; and
- (b) an asylum seeker or his dependent who—
 - (i) has been provided with accommodation under section 95 of the Immigration and Asylum Act 1999^(a); and
 - (ii) the accommodation is provided by a private landlord under contract to, or otherwise on behalf of, the National Asylum Support Service.

(2) In this regulation—

- (a) a reference to a migrant worker is a reference to a person who is a national of a member State of the European Economic Area or Switzerland who has taken up an activity as an employed person in the United Kingdom under Council Regulation (EEC) No 1612/68 on Freedom of Movement for Workers Within the Community^(b), as extended by the EEA Agreement or the Switzerland Agreement;
- (b) “seasonal worker” means a person who carries out in the United Kingdom for an employer or undertaking with a place of business there, employment of a seasonal character which—
 - (i) depends on the cycle of the seasons;
 - (ii) recurs automatically each year; and
 - (iii) the duration of which cannot exceed eight months,and who remains in the United Kingdom for the duration of his employment;
- (c) “asylum seeker” the same meaning given to that expression in section 94 of Immigration and Asylum Act 1999;
- (d) “EEA agreement” means the agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993; and
- (e) “Switzerland agreement” means the agreement between the European Community and its Member States of the one part and the Swiss Confederation of the other on the Free Movement of Persons signed at Luxembourg on 21st June 1999 and which came into force on 1st June 2002.

Applications for licences under Parts 2 or 3 of the Act

5.—(1) An application for a licence under Parts 2 or 3 of the Act must include the statement contained in paragraph 1 of Schedule 1.

(2) In his application to the local housing authority for a licence under Parts 2 or 3 of the Act an applicant must supply with his application the information contained in paragraphs 2 and 3 of Schedule 1;

(3) Every applicant must—

- (a) make the declarations contained in paragraph 4 of Schedule 1; and
- (b) sign the application.

^(a) 1999 c. 33.

^(b) O.J. L257, 19th October 1968, as amended by EEC 312/76 (O.J. L 39, 14th February 1976) and EEC 2434/92 (O.J.L.245, 26th August 1992).

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(4) Where the applicant proposes that another person should be the licence holder, both the applicant and the proposed licence holder must comply with the requirements in paragraph (3).

(5) The applicant must give the information referred to in paragraph (6) about the application to the following persons—

- (a) the proposed licence holder (if he is not the applicant);
- (b) every person whom he knows or reasonably believes is a relevant person^(a);
- (c) every person whom he knows or reasonably believes is managing the property; and
- (d) every person whom he knows or reasonably believes is a person having control of the property^(b).

(6) The information referred to in paragraph (5) is—

- (a) the name, address, telephone number and e mail address of the applicant;
- (b) the name, address, telephone number and e mail address of the proposed licence holder (if he is not the applicant);
- (c) the type of application by reference to it being made under Part 2 or Part 3 of the Act;
- (d) the address of the property to which the application relates;
- (e) the name and address of the local housing authority to which the application is made; and
- (f) the date on which the application is, or is to be, made.

(7) Nothing in paragraph (4) or (5) precludes an applicant from supplying a copy of the application, or other information about the application, to the persons listed in paragraph (5)(a) to (d).

(8) A local housing authority must reimburse an applicant in full any fee that he has paid in respect of a licence under Parts 2 or 3 of the Act as soon as reasonably practicable after it learns that at the time the fee was paid—

- (a) The house was not an HMO;
- (b) the house was an HMO that was not required to be licensed under Parts 2 or 3 of the Act; or
- (c) the house was not required to be licensed under Part 3 of that Act.

(9) Paragraph (8) applies whether or not a local housing authority granted a licence for a house when it was not required to be licensed.

Standards to be applied when determining the suitability of a house for multiple occupation for the purposes of section 64(3)(a) of the Act

6.—(1) Paragraph 2 applies in relation to houses meeting the conditions in sections 254(2), (3), (4) or (5) of the Act.

(2) When determining the suitability of a house referred to in paragraph (1) for occupation by a particular number of households or persons under section 65(1) of the Act a local housing authority must be satisfied that that the house meets at least the standards contained in Schedule 2.

Publication requirements relating to designations under Parts 2 or 3 of the Act

7.—(1) A local housing authority that is required to publish a notice relating to a designation, or a revocation of a designation described in sections 59(2), 60(6), 83(2) or 84(6) of the Act must comply with the requirements of this regulation.

(2) Within seven days after the date the designation was confirmed or made the local housing authority must —

(a) For the meaning of relevant person see section 69(8) of the Act.
(b) For the meaning of having control see section 263 of the Act.

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- (a) place the notice on a public notice board in a prominent position at one or more municipal buildings within the designated area, or if there are no such buildings within the designated area, at the closest of such buildings situated outside the designated area;
 - (b) publish the notice on the local authority's internet site; and
 - (c) arrange for its publication in at least two local newspapers circulating in or around the designated area—
 - (i) in the next edition of those newspapers; and
 - (ii) five times in the editions of those newspapers following the edition in which it is first published, with the interval between each publication being no less than two weeks and no more than three weeks.
- (3) Within two weeks after the designation was confirmed or made the local authority must send a copy of the notice to—
- (a) any person who responded to the consultation conducted by it under sections 56(3) or 80(9) of the Act;
 - (b) any landlord, tenant or residents' associations which, to the reasonable knowledge of the local housing authority, have members in the designated area;
 - (c) any organisation which, to the reasonable knowledge of the local housing authority—
 - (i) represents the interests of landlords or tenants operating within the district of the local housing authority; or
 - (ii) represents managing agents, estate agents or letting agents within the designated area; and
 - (d) every organisation within the local housing authority area that the local housing authority knows or believes provides advice on landlord and tenant matters, including—
 - (i) law centres;
 - (ii) citizens' advice bureaux;
 - (iii) housing advice centres; and
 - (iv) homeless persons' units.
- (4) Not later than two weeks before the designation comes into force the local housing authority must send a second copy of the notice to the persons and organisations referred to in paragraph (3).
- (5) In addition to the information referred to sections 59(2)(a), (b) and(c) or 83(2)(a), (b) and(c), the notice must contain the following information—
- (a) a brief description of the area to which the designation applies;
 - (b) the name, address, telephone number and e-mail address—
 - (i) of the local housing authority that made the designation;
 - (ii) where the designation may be inspected; and
 - (iii) where applications for licences and general advice may be obtained.
 - (c) a statement advising any landlord, person managing or tenant within the designated area to check with the local housing authority for advice on whether their property is affected by the designation; and
 - (d) a warning of the consequences of failing to licence a property that is required to be licensed, including the criminal sanctions; and

Publication requirements relating to the revocation of designations made under Parts 2 or 3 of the Act

8.—(1) A local housing authority that revokes a designation of a type described in sections 59(2), 60(6), 83(2) or 84(6) of the Act that it had previously made must comply with the requirements in this regulation.

- (2) Within seven days after revoking a designation the local housing authority must —

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- (a) place a notice on a public notice board at one or more municipal buildings within the designated area, or if there are no such buildings within the designated area, at the closest of such buildings situated outside the designated area; and
- (b) arrange for its publication in at least two local newspapers circulating in or around the designated area in the next edition of those newspapers.
- (3) The notice must contain the following information—
 - (a) a brief description of the area in respect of which the designation being revoked relates;
 - (b) a summary of the reasons for the revocation;
 - (c) the date from which the revocation takes effect
 - (d) the name, address, telephone number and e-mail address—
 - (i) of the local housing authority that revoking the designation; and
 - (ii) where the revocation may be inspected.

Registers of Licences

9.—(1) Every local housing authority must ensure that the registers they establish and maintain under section 232 of the Act in relation to licences granted by them under Parts 2 or 3 of that Act, contain in respect of each licence the following particulars—

- (a) the name and address of the licence holder;
- (b) the name and address of the manager of the licensed premises;
- (c) the address of the licensed premises;
- (d) a short description of the licensed premises;
- (e) a summary of the conditions of the licence;
- (f) the commencement date and duration of the licence;
- (g) details of any matter concerning the licensed premises that has been referred to a residential property tribunal or to the Lands Tribunal; and
- (h) details of any decision of the tribunals referred to in sub-paragraph (g) that relate to the licensed premises.

(2) In addition to the particulars referred to in paragraph (1), every local housing authority must ensure that the register they establish and maintain under section 232 of the Act in relation to licences granted by them under Part 2 of the Act contains in respect of each licence—

- (a) the number of storeys comprising the licensed premises;
- (b) the number of rooms in the licensed premises providing—
 - (i) sleeping accommodation; and
 - (ii) living accommodation;
- (c) in the case of an HMO consisting of flats—
 - (i) the number of flats that are self contained; and
 - (ii) the number of flats that are not self contained;
- (d) a description of shared amenities including the numbers of each amenity;
- (e) the maximum number of households permitted to occupy the HMO under the conditions of the licence; and
- (f) the maximum number of persons permitted to occupy the HMO under the conditions of the licence.

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Registers of temporary exemption notices

10.—(1) This regulation applies to temporary exemption notices served under section 62(2) or section 86(2) of the Act and to second temporary exemption notices served under section 62(5) or section 86(5) of the Act.

(2) Every local housing authority shall ensure that the registers they establish and maintain under section 232 of the Act in respect of the notices described in paragraph (1) include the following particulars—

- (a) the name and address of the person notifying the local housing authority under section 62(1) or section 86(1) of the Act;
- (b) the address of the HMO or house in respect of which the local housing authority has served a notice referred to in paragraph (1);
- (c) details of any previous temporary exemption notices that have been served under section 62(2) or 86(2) of the Act in relation to the same HMO;
- (d) a statement of the particular steps that the person referred to in sub-paragraph (a) intends to take with a view to securing that a house is no longer required to be licensed;
- (e) the date on which the local housing authority served a notice referred to in paragraph (1) and the date on which it ceases to be in force;
- (f) details of any matter concerning the HMO or house referred to in sub-paragraph (b) that has been referred to a residential property tribunal or to the Lands Tribunal; and
- (g) details of any decision of the tribunals referred to in sub-paragraph (e) that relate to the HMO or house referred to in sub-paragraph (b).

Registers of Management Orders

11.—(1) Every local housing authority shall ensure that the registers they establish and maintain under section 232 of the Act in respect of orders made under section 102(2), (3), (4) or (7) or 113(1) or (6) contain the following particulars—

- (a) the address of the premises to which the Order relates;
- (b) a short description of the premises;
- (c) the date on which the Order comes into force;
- (d) a summary of the reasons for making the Order;
- (e) a summary of the terms of the Order;
- (f) details of any application concerning the premises referred to in sub-paragraph (a) that has been made to a residential property tribunal or to the Lands Tribunal; and
- (g) details of any decision of the tribunals referred to in sub-paragraph (f) that relate to the premises referred to in sub-paragraph (a).

(2) In addition to the particulars referred to in paragraph (1), every local housing authority shall ensure that the register referred to in paragraph (1) contains, in respect of premises to which Part 2 of the Act applies, the following particulars—

- (a) the number of storeys comprising the licensed premises;
- (b) the number of rooms in the licensed premises providing—
 - (i) sleeping accommodation; and
 - (ii) living accommodation;
- (c) in the case of an HMO consisting of flats—
 - (i) the number of flats that are self contained; and
 - (ii) the number of flats that are not self contained;
- (d) a description of shared amenities including the numbers of each amenity;
- (e) the maximum number of households permitted to occupy the HMO; and

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(f) the maximum number of persons permitted to occupy the HMO.

(3) Every local housing authority shall ensure that the registers they establish and maintain under section 232 of the Act in respect of orders they made under section 133(1) or 136(1) or (2) contain the following particulars—

- (a) the address of the premises to which the Order relates;
- (b) a short description of the premises;
- (c) the date on which the Order comes into force;
- (d) a summary of the reasons for making the Order;
- (e) a summary of the terms of the Order;
- (f) details of any application concerning the premises referred to in sub-paragraph (a) that has been made to a residential property tribunal or to the Lands Tribunal; and
- (g) details of any decision of the tribunals referred to in sub-paragraph (f) that relate to the premises referred to in sub-paragraph (b).

Buildings that are not HMOs for the purposes of the Act (excluding Part 1)

12.—(1) The buildings of the types described in Schedule 3 are not HMOs for the purposes of the Act other than Part 1.

(2) The number of persons specified for the purposes of paragraph 6(1)(c) of Schedule 14 to the Act is two.

Signed by the authority of the First Secretary of State

XXX 2XXX

Minister of State
Office of the Deputy Prime Minister

SCHEDULE 1

Regulation 5(1)

Content of applications

1. An application must contain the following statement:

“You must let certain persons know in writing that you have made this application or give them a copy of it. You can do this by completing the attached form. The persons who need to know about it are—

Any mortgagee of the property

Any owner of the property to which the application relates (if that is not you) i.e. the freeholder and any head lessees who are known to you

Any other person who is a tenant or long leaseholder of the property or any part of it (including any flat) who is known to you other than a statutory tenant or other tenant whose lease or tenancy is for less than three years (including a periodic tenancy)

The proposed licence holder (if that is not you)

The proposed managing agent (if any) (if that is not you)

Any person who has agreed that he will be bound by any condition or conditions in a licence if it is granted.

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You must tell each of these persons—

Your name, address telephone number and e-mail address

The name, address, telephone number and e-mail address of the proposed licence holder (if it will not be you)

whether this is an application under Part 2 or Part 3 of the Housing Act 2004

the address of the property to which it relates

the name and address of the local housing authority to which the application will be made

the date the application will be submitted ”

2.—(1) An application for a licence under Parts 2 or 3 of the Act must contain the following information—

- (a) the name, address, telephone number and e mail address of—
 - (i) the applicant;
 - (ii) the proposed licence holder;
 - (iii) the person managing the house;
 - (iv) the person having control of the house; and
 - (v) any person who has agreed to be bound by a condition contained in the licence;
- (b) the address of the house for which a licence application is being made;
- (c) the age of the house (using the categories pre-1919, 1919-45, 1945-64, 1965-80 and post 1980);
- (d) the type of house for which the application is being made, by reference to one of the following categories—
 - (i) house in single occupation;
 - (ii) house in multiple occupation;
 - (iii) flat in single occupation;
 - (iv) flat in multiple occupation;
 - (v) a house converted into and comprising only of self contained flats;
 - (vi) a purpose built block of flats;
 - (vii) a house in a building used for both residential and business purposes; or
 - (viii) other.
- (e) details of other properties in the local housing authority area in which the application is made that are licensed under Parts 2 or 3 of the Act by the proposed licence holder;
- (f) details of properties in other local housing authority areas that are licensed under Parts 2 or 3 of the Act by the proposed licence holder;
- (g) the following information about the property for which the licence application is being made—
 - (i) the number of storeys comprising the HMO and the levels on which those storeys are situated;
 - (ii) the number of separate letting units;
 - (iii) the number of habitable rooms;
 - (iv) the number of bathrooms and shower rooms;
 - (v) the number of toilets and wash basins;
 - (vi) the number of kitchens;
 - (vii) the number of sinks;
 - (viii) the number of households occupying the property;

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- (ix) the number of people occupying the property;
- (x) details of fire precautions equipment and procedures, including the number and location of smoke alarms;
- (xi) information on whether the furniture in the property meets the statutory safety requirements;
- (xii) information on whether the gas and electrical appliances in the property meet the statutory safety requirements; and
- (xiii) Details of any building works carried out at the property and a copy of any planning consent, building regulations approval or certificates supplied upon completion of the works.

3. The following details must be supplied in relation to any person that the applicant proposes will be involved in the management of the house—

- (a) information concerning any unspent convictions that may be relevant to the proposed licence holder's fitness to hold a licence and in particular any offence involving fraud or other dishonesty, or violence or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003;
- (b) details of any finding by a court or tribunal against the proposed licence holder that he has practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business;
- (c) details of any contravention on the part of the proposed licence holder of any provision of any enactment relating to housing or of landlord and tenant law; including any civil proceedings in which judgement was made against the proposed licence holder;
- (d) information about any property the proposed licence owner owns or has owned which has been subject to a control order under section 379 of the Housing Act 1985(a) in the last 5 years;
- (e) information about any property for which the proposed licence holder has been refused a licence under Parts 2 or 3 of the Act;
- (f) information about any condition of a licence granted under Parts 2 or 3 of the Act that the proposed licence holder has breached;
- (g) information about any act on the part of the proposed licence holder that was otherwise than in accordance with a Code of Practice approved under section 233 of the Act that concerns a property owned by him;
- (h) information about any property that the proposed licence holder owns or has owned that has been the subject of any proceedings (whether court or otherwise) by a local authority, including details of any work that the local authority has carried out as a result of default on the part of the proposed licence holder;
- (i) information about any property the proposed licence holder owns or has owned that has been the subject of an interim or final management order or a special interim management order under the Act;

4. An application must contain the following declarations which must be signed by the applicant—

“I/we declare that the information contained in this application is correct to the best of my/our knowledge. I/We understand that I/we commit an offence if I/we supply any information to a local housing authority in connection with any of their functions under any of Parts 1 to 4 of the Housing Act 2004 that is false or misleading and which I/we know is false or misleading or I/we are reckless as to whether it is false or misleading.

Signed (all applicants)

Dated

(a) 1985 (c.68).

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I/We declare that I/We have served a notice of this application on the following persons who are the only persons known to me/us that are required to be informed that I/we have made this application:

"Name	Address	Description of the person's interest in the property or the application	Date of service"

”

SCHEDULE 2

Regulation 6(2)

Standards that a local authority must consider for the purposes of section 65(1) of the Act

Washing facilities

1. Where all or some of the units of living accommodation do not contain bathing and toilet facilities for the exclusive use of each individual occupant, for all sharing occupants—

- (a) there must be at least one separate toilet with wash hand basin with tiled splash back per 5 occupiers;
- (b) there must be at least one bathroom with a fixed bath or shower supplying cold and constant hot water per 5 occupiers;
- (c) all baths, showers and wash hand basins must be equipped with fixed taps providing a satisfactory supply of cold and constant hot water supply;
- (d) bathrooms must be adequately heated and ventilated;
- (e) all bathrooms and toilets are to be of an adequate size and layout;
- (f) all baths, toilets and wash hand basins are to be fit for the purpose; and
- (g) all bathrooms and toilets are to be suitably located in relation to the living accommodation in the house.

2. Where the standards described in paragraphs 1(a) to (d) are not for the time being met the local housing authority must require those standards to be met within three years of the grant of the licence granted under Parts 2 or 3 of the Act, as a condition of that licence.

Kitchens

3. Where all or some of the units of accommodation do not contain any facilities for the cooking of food for the exclusive use of the occupants, for all sharing occupants—

- (a) there must be a kitchen suitably located in relation to the living accommodation in the house of such layout and size and equipped with such facilities so as to adequately enable the occupants of the house to store, prepare and cook food;
- (b) the kitchen must be equipped, as a minimum, with the following equipment, which must be fit for the purpose and supplied in a sufficient quantity for the number of occupants—
 - (i) sinks with draining boards;
 - (ii) a satisfactory supply of cold and constant hot water to each sink supplied;

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- (iii) cookers;
- (iv) electrical sockets;
- (v) kettles;
- (vi) worktops for the preparation of food;
- (vii) cupboards;
- (viii) refrigerators with freezer compartments;
- (ix) refuse disposal facilities; and
- (x) extractor fans , fire blankets and fire doors .

Facilities required in HMOs meeting the conditions in section 254(4) of the Act

4.—(1) Each unit of living accommodation in an HMO meeting the conditions in section 254(2) and (4) of the Act must be equipped with the following—

- (a) a wash hand basin or, if cooking facilities are provided, a sink with a satisfactory supply of cold and constant hot water; and
- (b) an adequate means of space heating.

(2) Where there is neither a separate kitchen nor access to a kitchen, the unit must be provided with—

- (a) adequate facilities for cooking food;
- (b) a work top for preparing food;
- (c) a kettle;
- (d) sufficient electrical sockets;
- (e) a cupboard; and
- (f) a refrigerator.

(3) Where there are no adequate share facilities provided in accordance with paragraph 1, a toilet and bath or fixed shower, with a satisfactory supply of cold and constant hot water, must be provided for the exclusive use of the occupants either—

- (a) within the living accommodation; or
- (b) in a separate, adequately laid out and ventilated, enclosed room within reasonable proximity to the living accommodation.

Fire precautionary facilities

5. Appropriate fire precautionary equipment must be provided in communal areas (including kitchens, entrance halls, landings and hallways) of such type, number and location as is considered necessary.

SCHEDULE 3

Buildings which are not HMOs for any purpose of the Act other than those of Part 1

1. Buildings that are regulated under provisions contained in the following enactments—

- (a) sections 87, 87A, 87B, 87C and 87D of the Children Act 1989(a);
- (b) section 43(4) of the Prison Act 1952(b);
- (c) section 34 of the Nationality, Immigration and Asylum Act 2002(a);

(a) 1989 (c.41).
(b) 1952 (c.52).

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- (d) The Secure Training Centre Rules 1998**(b)**;
- (e) The Prison Rules 1999**(c)**;
- (f) The Young Offender Institute Rules 2000**(d)**;
- (g) The Detention Centre Rules 2001**(e)**;
- (h) The Criminal Justice and Court Services Act 2000 (Approved Premises) Regulations 2001**(f)**;
- (i) The Care Homes Regulations 2001**(g)**;
- (j) The Children's Homes Regulations 2001**(h)**; and
- (k) The Residential Family Centres Regulations 2002**(i)**;

EXPLANATORY NOTE

(This note is not part of the Order)

These regulations—

specify the circumstances when persons are to be regarded as being in the same household as another for the purposes of deciding whether a building is an HMO within any of the descriptions in section 254 of the Housing Act 2004 (c.34) (“the Act”) (*regulation 3*);

provide that migrant workers, seasonal workers and asylum seekers are to be treated as occupying certain premises as their only or main residence (*regulation 4*);

specify the contents of applications for licences under Parts 2 and 3 of the Act (*regulation 5 and Schedule 1*);

specify the standards to be applied when determining the suitability of a house for multiple occupation for licensing under Part 2 of the Act (*regulation 6 and Schedule 2*);

specify the manner in which designations under Parts 2 or 3 of the Act (additional and selective licensing), and revocations of such designations must be published (*regulations 7 and 8*);

specify the information that must be contained in registers held by local housing authorities of licences granted under Parts 2 or 3, temporary exemption notices that exempt a house from licensing and of management orders (*regulations 8, 9 and 10*); and

specify the buildings that are not HMOs for the purposes of the Act (excluding Part 1) (*regulation 12 and Schedule 3*).

A full regulatory impact assessment of the effect that this Order will have on the costs of business is available from the Licensing Branch, the Office of the Deputy Prime Minister 2/G9 Eland House, Bressenden Place, London, SW1E 5DU (telephone 0207 944 3149, e-mail licensing@odpm.gsi.gov.uk).

(a) 2002 (c 41).

(b) SI 1998/472, as amended by SI 2003/3005.

(c) SI 1999/728, as amended by SI 2000/1794, SI 2000/2641, SI 2001 1149, SI 2002/2116, SI 2002/3135, SI 2003/3301 and 2005/869.

(d) SI 2000/3371, as amended by SI 2002/2117, SI 2002/3135 and SI 2005/897.

(e) SI 2001/238. Section 66(4) of the Nationality, Immigration and Asylum Act 2002 (c.41) provides that the reference to a detention centre is to be construed as a reference to a removal centre as defined in Part VIII of the Immigration and Asylum Act 1999 (c.33).

(f) SI 2001/850.

(g) SI 2001/3965, as amended by SI 2002/865, SI 2003/534, SI 2003/1590, SI 2003/1703, SI 2003/1845, SI 2004/664, SI 2004/696, 2004/1770, 2004/2 071 and 2004/3168.

(h) SI 2001/3967, as amended by SI 2002/865, SI 2002/2469, SI 2004/664 and SI 2004/3168.

(i) SI 2002/3213, as amended by SI 2004/664, SI 2004/865 and SI 2004/3168.

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STATUTORY INSTRUMENTS

2005 No. //

HOUSING, ENGLAND

The Management of HMOs (England) Regulations 2XXX

Made - - - - 2XXX

Laid before Parliament 2XXX

Coming into force - - 2XXX

The First Secretary of State, in exercise of the powers conferred by section 234(1) of the Housing Act 2004^(a) makes the following Order:

Citation, commencement and application

1.—(1) These Regulations may be cited as The Management of HMOs (England) Regulations 2005 and shall come into force on XXXX 2XXX.

(2) These Regulations apply to any HMO^(b) in England other than a converted block of flats to which section 257 of the Act applies.

Interpretation

2.—(1) In these Regulations—

- (a) “the Act” means the Housing Act 2004;
- (b) “common parts” means—
 - (i) the entrance doors leading to each unit of living accommodation within the HMO;
 - (ii) all such parts of the HMO as comprise staircases, passageways, corridors, halls, lobbies, entrances, balconies, porches and steps that are used by the occupants of the units of living accommodation within the HMO to gain access to the entrance doors of their respective unit of living accommodation; and
 - (iii) outbuildings, yards, gardens and forecourts of the HMO which are used in common by the occupants of one or more of the units of living accommodation within the HMO; and
- (c) “manager” means a person managing the premises comprising the HMO^(c); and
- (d) “installation” includes—
 - (i) an installation or appliance for the supply of gas, electricity, cold water or drainage;
 - (ii) an installation for a telephone connection, including the telephone appliance;

^(a) 2004 c 34. The powers conferred by section 234(1) of the Act are exercisable, as respects England, by the Secretary of State and, as respects Wales, by the National Assembly for Wales. See the definition of the appropriate national authority in section 261(1) of the Act.

^(b) For the meaning of HMO see sections 254 to 259 of the Act.

^(c) For the meaning of “person managing” see section 263(3) of the Act.

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- (iii) an installation or appliance for the supply of lighting, space heating or heated water;
- (iv) toilets, baths, showers, sinks, or wash basins or any other cupboards, shelving or fittings supplied in a bathroom or lavatory;
- (v) a cupboard, shelving or appliance used for the storage, preparation or cooking of food; or
- (vi) a washing machine or other laundry appliance.

Duty of manager to provide information to occupants

3. The manager must ensure that his name, address and any telephone contact number is made available to the occupant of each unit of living accommodation in the HMO.

Duty of manager to take safety measures

4.—(1) The manager must ensure that all means of escape from fire in the HMO are—

- (a) kept free from obstruction; and
- (b) maintained in good order and repair.

(2) The manager must ensure that all fire fighting equipment and fire alarms are maintained in good working order.

(3) The manager must ensure that signs to indicate all means of escape from fire are displayed in positions within the HMO that enable them to be clearly visible to the occupants.

(4) The manager must take all such measures as are reasonably required, having regard to the design of, the structural conditions in, and the number of occupants in, the HMO, to protect the occupants from injury.

(5) In performing the duties described in paragraph (4) the manager must in particular—

- (a) in relation to any roof or balcony that is unsafe, either ensure that it is made safe or take all reasonable measures to prevent access to it for so long as it remains unsafe; and
- (b) in relation to any windows situated on a staircase, ensure that such safeguards are made as are reasonably necessary to prevent injury arising from such windows.

Duty of manager to supply and maintain water supply and drainage

5.—(1) The manager must ensure that the water supply and drainage system to the HMO and its common parts is maintained in good, clean and working condition.

(2) The manager must ensure that every receptacle used for the storage of water for drinking or other domestic purposes at the HMO is kept in a good, clean and working condition with a cover kept over it to keep the water in a clean and proper condition.

(3) The manager must ensure that every part of the water supply and drainage system at the HMO that is susceptible to frost damage, except any overflow pipe or the mains supply pipes, is protected from frost damage.

(4) The manager must not unnecessarily cause or permit the water or drainage supply to any unit of living accommodation within the HMO that is occupied to be interrupted.

Duty of manager to supply and maintain gas and electricity

6.—(1) The manager must ensure that every gas installation is tested at least annually by an engineer recognised by the Council of Registered Gas Installers as being competent to undertake such testing.

(2) The manager must ensure that every electrical installation is tested at intervals of no more than five years by an engineer recognised by the Institute of Electrical Engineers as being competent to undertake such testing.

(3) The manager must—

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- (a) obtain a certificate from the engineer conducting the testing referred to in paragraphs (1) or (2) specifying the results of the test ; and
 - (b) supply to the local housing authority that certificate within 7 days of receiving a request for it from the local housing authority.
- (4) The manager must not unnecessarily cause the gas or electricity supply to any unit of living accommodation within the HMO that is occupied to be interrupted.

Duty of manager to maintain HMO common parts and installations

- 7.—(1) The manager must ensure that all common parts and installations of the HMO are maintained in good, clean, safe and working condition and kept reasonably clear from obstruction.
- (2) The manager must in particular ensure that—
- (a) all handrails and banisters are at all times kept in good repair;
 - (b) any additional handrails or banisters as are necessary for the safety of the occupants of the HMO are provided;
 - (c) any stair coverings are safely fixed and kept in good repair;
 - (d) all windows and other means of ventilation within the common parts are kept in good repair;
 - (e) common parts are fitted with adequate lighting installations that are available for use at all times by every occupant of the HMO; and
 - (f) every installation used in common by the occupants of one or more units of living accommodation is maintained in good and safe repair and in clean working order.
- (3) This regulation does not apply in relation to installations that the occupier is entitled to remove from the house or which are otherwise outside the control of the manager.

Duty of manager to maintain living accommodation

- 8.—(1) The manager must ensure that each unit of living accommodation and any furniture supplied with it are in clean condition at the beginning of a person's occupation of it.
- (2) The manager shall ensure, in relation to each unit of living accommodation that is occupied, that—
- (a) the internal structure is maintained in good repair;
 - (b) every installation within the unit is maintained in good repair and in clean working order; and
 - (c) every window and other means of ventilation are kept in good repair.
- (3) This regulation does not require the manager to carry out any repair the need for which arises in consequence of use by the occupant of his living accommodation otherwise than in a tenant-like manner.
- (4) For the purpose of this regulation a person shall be regarded as using his living accommodation otherwise than in a tenant-like manner where he fails to treat the property in accordance with the covenants or conditions contained in his lease or licence or otherwise fails to conduct himself as a reasonable tenant would do.

Duty to provide waste disposal facilities

9. The manager must—
- (a) ensure that sufficient bins or other suitable receptacles are provided that are adequate for the requirements of the occupants for the storage of refuse and litter pending their disposal; and
 - (b) make such further arrangements for the disposal of refuse and litter from the HMO as may be necessary, having regard to any service for such disposal provide by the local authority.

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Responsibilities of other persons

10. Nothing in these regulations shall be taken to—
- (a) require or authorise anything to be done in connection with the gas or electricity supply otherwise than in accordance with any enactment, or to oblige the manager to take, in connection with those matters, any action which is the responsibility of a local authority or any other person, other than such action as may be necessary to bring the matter promptly to the attention of the authority or person concerned; or
 - (b) impose a duty on the manager to repair or maintain anything which the occupant is entitled to remove from the house.

Duties of occupiers of HMOs

11. Every occupant of an HMO must—
- (a) conduct himself in a way that will not hinder or frustrate the manager in the performance of his duties;
 - (b) allow the manager, for any purpose connected with the carrying out of his duties, at all reasonable times to enter any living accommodation or other place occupied by that person;
 - (c) provide the manager, at his request, with any such information as he may reasonably require for the purpose of carrying out his duties;
 - (d) take reasonable care to avoid causing damage to anything which the manager is under a duty to supply, maintain or repair under these regulations;
 - (e) store and dispose of litter in accordance with the arrangements made by the manager; and
 - (f) comply with the reasonable instructions of the manager in respect of any means of escape from fire, the prevention of fire and the use of fire equipment.

Signed by the authority of the First Secretary of State

// 2005

Minister of State
Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Order)

These regulations set out the duties of a person managing an HMO and the corresponding duties of every person occupying it. A person who fails to comply with these Regulations commits an offence under section 234(3) of the Housing Act 2004 (c.34), punishable on summary conviction with a fine not exceeding level 5 on the standard scale.

A full regulatory impact assessment of the effect that this Order will have on the costs of business is available from the Licensing Branch, the Office of the Deputy Prime Minister 2/G9 Eland House, Bressenden Place, London, SW1E 5DU (telephone 0207 944 3149, e mail licensing@odpm.gsi.gov.uk).

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STATUTORY INSTRUMENTS

2005 No. ///

HOUSING, ENGLAND

The Selective Licensing of Houses (Specified Exemptions) (England) Order 2XXX

<i>Made</i> - - - -	2XXX
<i>Laid before Parliament</i>	2XXX
<i>Coming into force</i> - -	2XXX

The Secretary of State, in exercise of the powers conferred by section 79(4) of the Housing Act 2004(a) makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as The Selective Licensing of Houses (Specified Exemptions) (England) Order 2005 and shall come into force on XXXX 2XXX.

(2) This Order applies in relation to England only.

Interpretation

2. In this Order “the Act” means the Housing Act 2004.

Exempt tenancies or licences for the purposes of Part 3 of the Act

3.—(1) A tenancy or licence shall be an exempt tenancy or licence for the purposes of part 3 of the Act if it falls within any of the following descriptions—

- (a) a tenancy or licence that relates to any part of a house(b) that is subject to a prohibition order made under section 20 of the Act that has not been suspended in accordance with section 23 of the Act;
- (b) a tenancy to which paragraphs 4, 5 6 or 7 of Schedule 1 to the Housing Act 1988(c) applies;
- (c) a tenancy or licence that relates to a building described in paragraphs 2(1)(a), (c), (d), (e) or (f) to Schedule 14 of the Act;
- (d) a tenancy or licence in respect of a building specified in regulations made under paragraphs 3 or 4(2) to Schedule 14 of the Act;

(a) 2004 c. 34. The powers conferred by section 79(4) of the Act are exercisable as respects England, by the Secretary of State and, as respects Wales by the National Assembly for Wales. See the definition of the appropriate national authority in section 261(1).

(b) For the meaning of house see section 99 of the Act.

(c) 1988 c. 50.

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- (e) a tenancy or licence of a house granted by a person to a person who is a member of his family;
 - (f) a tenancy of a house where—
 - (i) the term of the tenancy is more than 21 years;
 - (ii) the lease does not contain a provision enabling the landlord to determine the tenancy, other than by forfeiture, earlier than at end of the term; and
 - (iii) the house is occupied by a person to whom the tenancy was granted or his successor in title or any members of such person's family;
 - (g) a tenancy or licence that is granted to a person in relation to his use of a house as a holiday home; or
 - (h) a tenancy or licence of a house which under its terms the occupier shares any accommodation with the landlord or licensor or a member of the landlord's or licensor's family.
- (2) For the purposes of this article—
- (a) a person is a member of the same family as another person if—
 - (i) those persons live as a couple;
 - (ii) one of them is the relative of the other; or
 - (iii) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple;
 - (b) “couple” means two persons who are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);
 - (c) “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
 - (d) a relationship of the half-blood is to be treated as a relationship of the whole blood;
 - (e) a stepchild of a person is to be treated as his child;
 - (f) an occupier shares accommodation with another person if he has the use of an amenity in common with that person (whether or not also in common with others); and
 - (g) “amenity” includes a toilet, personal washing facilities, a kitchen or a living room but excludes any area used for storage, a staircase, corridor or other means of access.

Signed by authority of the First Secretary of State
Address
Date

Name
Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies the descriptions of tenancies and licences that are exempt tenancies or licences for the purposes of Part 3 of the Housing Act 2004 (c.34) (“the Act”). The effect of the exemption is that Part 3 of the Act does not apply to houses that are subject to a licence or tenancy described in article 3 and they are not, therefore, subject to the licensing requirements described in section 85 of the Act.

A full regulatory impact assessment of the effect that this Order will have on the costs of business is available from the Licensing Branch, the Office of the Deputy Prime Minister 2/G9 Eland House, Bressenden Place, London, SW1E 5DU (telephone 0207 944 3149, e-mail licensing@odpm.gsi.gov.uk).

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STATUTORY INSTRUMENTS

2005 No. //

HOUSING, ENGLAND

The Housing (Interim Management Orders) (Prescribed Circumstances) (England) Order 2XXX

<i>Made</i> - - - -	2XXX
<i>Laid before Parliament</i>	2XXX
<i>Coming into force</i> - - -	2XXX

The Secretary of State, in exercise of the powers conferred by section 103(5) of the Housing Act 2004(a) makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as The Housing (Interim Management Orders) (Prescribed Circumstances) (England) Order 2005 and shall come into force on XXXX 2XXX.

(2) This Order shall apply in relation to England only.

Interpretation

2. In this Order “the Act” means the Housing Act 2004.

Prescribed circumstances for the making of an interim management order under section 103(2) of the Act

3. The following circumstances are prescribed for the purposes of section 103(3) of the Act—

- (a) the area in which the house(b) is located is experiencing a significant and persistent problem caused by anti-social behaviour(c);
- (b) there is a significant and persistent problem at the house caused by anti-social behaviour;
- (c) the landlord of the house is a private sector landlord;
- (d) the landlord of the house is failing to take action to combat the problem that it would be appropriate for him to take; and

(a) 2004 c. 34. The powers conferred by section 103(5) of the Act are exercisable, as respects England, by the Secretary of State and, as respects Wales, by the National Assembly for Wales. See definition of the appropriate national authority in section 261(1).

(b) For the meaning of house see section 99 and 103(7) of the Act.

(c) For the meaning of anti-social behaviour see section 57(5) of the Act.

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- (e) the effect of the order, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, will lead to a reduction in, or elimination of, the problem.

Signed by authority of the First Secretary of State.

Name

Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

Date

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes the category of circumstances, for the purposes of section 103(3) of the Housing Act 2004 (c. 34), that need to be satisfied before a residential property tribunal can authorise a local housing authority to make an Interim Management Order in respect of a house.

A residential property tribunal can only authorise the making of such an order if it is necessary for the purposes of protecting the health, safety or welfare of persons occupying, visiting or otherwise engaging in the lawful activities in the vicinity of the house.

A full regulatory impact assessment of the effect that this Order will have on the costs of business is available from the Licensing Branch, the Office of the Deputy Prime Minister 2/G9 Eland House, Bressenden Place, London, SW1E 5DU (telephone 0207 944 3149, e mail licensing@odpm.gsi.gov.uk).