

REGULATORY APPRAISAL

HOUSING, WALES

THE LICENSING OF HOUSES IN MULTIPLE OCCUPATION (PRESCRIBED DESCRIPTIONS) (WALES) ORDER 2006

Purpose and intended effect of the measure

1. The purpose of this Order is to prescribe a description of a house in multiple occupation (HMO) to which Part 2 of the Housing Act 2004 applies. Under section 61(1) of the 2004 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 Part 4 of the Act. A Temporary Exemption Notice empowers a local housing authority to grant an exemption to licensing of a HMO. Interim and Final Management Orders transfer the management of a residential property to the local housing authority for a period of up to twelve months and five years respectively.
2. This Order sets out the conditions HMOs must satisfy in order to be of a prescribed description. These conditions are: the HMO or any part of it comprises three storeys or more; it is occupied by five persons or more; and it is occupied by persons living in two or more single households.
3. It also 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. This Order will place a duty on local authorities to replace existing HMO registration schemes with mandatory HMO licensing schemes for properties that satisfy these conditions.
4. This Order forms part of a package of legislation, which will all come into force by early July 2006.

Risk Assessment

5. This Order provides a safeguard for people living in the private rented sector in that it requires a local housing authority to licence all HMOs that are three storeys or more containing five or more occupants and living in two or more single households. If this Order is not brought into force as soon as possible then there will be direct implications for tenants in the private rented sector, local housing authorities and voluntary organisations such as the Citizens Advice Bureau as HMOs play an important role in accommodating the young, the less well-off and the social disadvantaged who have no other housing choice. HMO licensing, therefore, aims for greater management control of this sector by local housing authorities.

Options

Option 1: Do Nothing

6. If this Order is not made local housing authorities will not be able to prescribe a description of an HMO, which would seriously limit the powers of local housing authorities with regard to this sector in Wales.

Option 2: Make the Legislation

7. HMOs play an important role in accommodating the young, the less well-off and the social disadvantaged who have no other housing choice. This Order, therefore, aims for greater management control of this sector by local housing authorities. This would benefit tenants in the private rented sector and local housing authorities who have to deal with HMOs. The Order should help to improve standards in the private rented sector in terms of property condition and management.

Benefits

8. Tenants in the private rented sector should benefit from the introduction of this Order, as it will assist local authorities in improving the standard of property condition and management in HMOs. HMOs play an important role in accommodating the young, the less well-off and the social disadvantaged who have no other housing choice. HMO licensing therefore, aims for greater management control of this sector by local housing authorities

Costs

9. Any financial implications associated with the implementation of this Order will be expenditure incurred by local housing authorities. These costs will include initial training and running costs of the licensing scheme as well as administration and enforcement costs. The costs will be met by the additional £1.0 million that the Welsh Assembly Government has provided in the Revenue Support Grant. This grant will cover the totality of the HMO licensing scheme. A further £200k for the costs of training has been provided via the Welsh Local Government Association (WLGA).
10. Once established, the licensing schemes will be self-financing through fees, which will cover any development and enforcement costs. The fees are licence fees paid by the person who has applied for a licence. Local authorities will set their own licence fees, which should reflect the costs to individual local authorities of HMO licensing. A fees toolkit has been produced to help local authorities set their own fee levels.

Consultation

With Stakeholders

11. Consultation on the policy behind this Order has been undertaken on several occasions since 1999. The last consultation was undertaken between 13 January 2005 and 28 February 2005 and a list of consultees is attached at Annex A to the Regulatory Appraisal. Twenty-seven responses

were received to this consultation, the vast majority of which welcomed the licensing proposals as an effective way of regulating the sector.

12. A few respondents, notably Shelter Cymru, suggested that mandatory licensing should apply to all HMOs. Given the numbers involved this was considered to be unrealistic being overly costly and bureaucratic. However, local authorities will have powers in the Act to licence HMOs over and above the mandatory level of three storeys and five or more occupants.

With Subject Committee

13. This Order has been notified to the Social Justice and Regeneration (SJ&R) Committee, via the list of forthcoming legislation on 12 January 2006 (Paper SJR(2)01-06, paper 4, Annex 1 page 3) and has remained on the list ever since. This Order was not identified for detailed scrutiny. However, at that time the title of the legislation was The Licensing of Houses in Multiple Occupations (Prescribed Prescriptions) (Wales) Order 2006. The correct title was notified to the SJ&R Committee, via the list of forthcoming legislation on 3 May 2006 (Paper SJR(2)-07-06(p.4) Annex 1). Progress on the provisions of the Housing Act 2004 has been regularly reported to the SJ&R Committee.

Review and enforcement

14. The Assembly Government will review the operation and implementation of the HMO regime including the scope of mandatory licensing within three years of it being introduced. Licensing will be enforced by local authorities. It will be a criminal offence to operate an HMO without a licence. There are no formal arrangements in place for reviewing the enforcement. It will be in light of experience and discussions with relevant parties when licensing has been in place for three years. England will be following the same approach.

Summary

15. This Order, when introduced, will place a duty on local authorities to replace existing HMO registration schemes with mandatory HMO licensing schemes for properties that are three storeys or more with five or more occupants. When implemented, this Order will be a valuable tool for local authorities to safeguard the wellbeing of tenants in the private rented sector.

Annex A

List of Consultees

All Local Authorities in Wales
All Police & Fire Authorities in Wales
All Wales Chief Housing Officers Group
Association of Chief Police Officers
Association of Letting Management Agents
Association of Residential Letting Agents
Caer Las
Cardiff Bond Board
Cardiff Law Centre
Care and Repair Cymru
Chartered Institute of Housing Cymru
Chief & Assistant Chief Fire Officers Association
Commission for Local Administration in Wales
Council of Mortgage Lenders
Federation of Small Business
Fire Brigades Union
Fire Officers Association
Further Education Funding Council in Wales
Health & Safety Executive in Wales
Higher Education Funding Council for Wales
National Association of Estate Agents
National Federation of Builders (Wales Area)
National Landlords Association
National Union of Students Wales
Pembrokeshire Action for Single Homeless
Royal College of Nursing Wales
Royal Institution of Chartered Surveyors
Royal Society for Prevention of Accidents
Salvation Army
Shelter Cymru
Society of Architects in Wales

Society of Directors of Public Protection in Wales

Trades Union Congress Wales

Wales Council for Voluntary Action

Wales Tourist Board

Welsh Federation of Housing Associations

Welsh Local Government Association

Welsh Tenants' Federation Ltd