

EXPLANATORY MEMORANDUM TO
THE HOUSES IN MULTIPLE OCCUPATION (MANAGEMENT) (WALES)
REGULATIONS 2009

This Explanatory Memorandum has been prepared by the Private Sector Unit of the Housing Directorate and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Description

1. Under the Management of Houses in Multiple Occupation (Wales) Regulations 2006 (“the 2006 regulations”) landlords are required to provide a local housing authority with a copy of the latest gas appliance test certificate on request. The gas appliance certificate has to be related to testing of gas appliances by a “recognised engineer” and a “recognised engineer” is defined as an engineer recognised by the Council of Registered Gas Installers (CORGI). A similar provision is included in the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007 (“the 2007 regulations”). These Regulations amend the references in both the 2006 and 2007 regulations to replace the definition of “recognised engineer”. The new definition refers to an engineer who is approved under regulation 3 of the Gas Safety (Installation and Use) Regulations 1998.

Matters of special interest to the Subordinate Legislation Committee

2. None at this stage.

Legislative Background

3. The powers which enable these regulations to be made are contained within Section 234 of the Housing Act 2004 (“the Act”). These powers were exercisable, in respect to Wales, by the National Assembly for Wales, as per the definition of “an appropriate National Authority” contained at Section 261(1) of the Act. These powers were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (“GOWA”).
4. These Regulations follow the negative resolution procedure.

Purpose and intended effect of legislation

5. These Regulations apply to houses in multiple occupation (as defined in sections 254 to 259 of the Housing Act 2004) (“HMOs”) in Wales. Under the Management of Houses in Multiple Occupation (Wales) Regulations

2006 (“the 2006 Regulations”), which apply in relation to all HMOs except those to which section 257 (HMOs: certain converted blocks of flats) of the Housing Act 2004 applies, a manager of an HMO is required to carry out certain duties in respect of the management of the HMO. One of those duties is to supply to the local housing authority within 7 days of receiving a request in writing from the authority the latest gas appliance test certificate the manager has received in relation to the testing by a “recognised engineer” of any gas appliance at the HMO. Under the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (Wales) (Regulations) 2007 (“the 2007 Regulations”) the same duty applies in relation to managers of HMOs to which section 257 of the Housing Act 2004 applies. These Regulations replace the definition of “recognised engineer” in the 2006 Regulations and the 2007 Regulations. The new definition refers to an engineer who is approved under regulation 3 of the Gas Safety (Installation and Use) Regulations 1998.

Implementation

6. If these Regulations are not made the effective management and gas safety in Houses in Multiple Occupation will be affected.
7. The same SI came into force in England on 13 April 2009 (the Houses in Multiple Occupation (Management) (England) Regulations 2009 (S.I. No 724/2009)).

Consultation

8. Consultation is not considered necessary on these Regulations as the changes are routine and the impact of them is regarded as being relatively minor in the light of the current legislation.

Regulatory Impact Assessment

9. A regulatory impact assessment is not regarded as being necessary for these Regulations as they will have very limited effect on the current arrangements relating to the management of Houses in Multiple Occupation.

Post Implementation Review

10. The impact of the policy contained in these Regulations is predictable. They are not likely to need review in the near future but may be updated if further changes to the management Regulations for Houses in Multiple Occupation are made. The administration of the policy relating to these Regulations will be a matter for local authorities to consider.

Summary

11. These Regulations will have a limited impact on local housing authorities who are responsible for ensuring that Houses in Multiple Occupation are effectively managed.