APPENDIX 2.
EXEMPTIONS

The following list are exempt from selective licensing schemes:

- Houses in multiple occupation (HMOs) subject to mandatory or discretionary licensing under Part 2 of the Housing Act 2004
- Those where a Temporary Exemption Notice is in force
- Those where a management order is in force under Part 4 of the Housing Act 2004

The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006 contains further exempt tenancies or licences [7].

Prohibition of occupation by law

1. A tenancy or licence of a house[8] or a dwelling[9] within a house where the house or the dwelling is subject to a prohibition order made under section 20 of the Act the operation of which has not been suspended under section 23.

Certain tenancies which cannot be assured tenancies

2. A tenancy which cannot be an assured tenancy by virtue of section 1 (2) of the Housing Act 1988 comprised in Part of Schedule 1 of the Act and which is:
   (a) a business tenancy under Part II of the Landlord and Tenant Act 1954;
   (b) a tenancy under which the dwelling-house consists of or comprises premises, which, by virtue of a premises licence under the Licensing Act 2003, may be used for the supply of alcohol (within the meaning of Section 14 of that Act) for consumption on the premises[10];
   (c) a tenancy under which agricultural land, exceeding two acres, is let together with the house[11];
   (d) a tenancy under which the house is comprised in an agricultural
holding or the holding is comprised under a farm business tenancy if it is occupied (whether as tenant or as a servant or agent of the tenant), in the case of an agricultural holding, by the person responsible for the control of the farming of the holding, and in the case of a farm business tenancy, by the person responsible for the control of the management of the holding[12].

**Tenancies and licences granted etc by public bodies**

3. A tenancy or licence of a house or dwelling within a house that is managed or controlled[13] by:
   
   (a) local housing authority;
   
   (b) a police authority established under section 3 of the Police Act 1996 or the Metropolitan Police Authority established under section 5B of that Act;
   
   (c) a fire and rescue authority under the Fire and Rescue Services Act 2004;
   
   (d) a health service body within the meaning of section 4 of the National Health Service and Community Care Act 1990.

**Tenancies, licences etc regulated by other enactments**

4. A tenancy, licence or occupation of a house which is regulated under the following enactments:
   
   (a) sections 87 to 87D of the Children Act 1989;
   
   (b) section 43 (4) of the Prison Act 1952;
   
   (c) section 34 of the Nationality, Immigration and Asylum Act 2002;
   
   (d) The Secure Training Centre Rules 1998[14];
   
   (e) The Prison Rules 1998[15];
   
   (f) The Young Offender Institute Rules 2000[16];
   
   (g) The Detention Centre Rules 2001[17];
   
   (h) The Criminal Justice and Court Service Act 200 (Approved Premises) Regulations 2001[18];
(i) The Care Homes Regulations 2001[19];
(j) The Children’s Homes Regulations 2001[20];
(k) The Residential Family Centres Regulations 2002[21].

**Certain student lettings etc**

5. A tenancy or licence of a house or a dwelling within a house –
   (a) which is managed or controlled by a specified educational establishment or is of a specified description of such establishments and
   (b) the occupiers of the house or dwelling are undertaking a full time course of further or higher education at the specified establishment[22] and
   (c) the house or dwelling is being managed in conformity with an Approved Code of Practice for the management of excepted accommodation under section 233 of the Act[23]

**Long leaseholders**

6. A tenancy of a house or a dwelling within a house provided that –
   (a) the full term of the tenancy is for more than 21 years and
   (b) the tenancy does not contain a provision enabling the landlord (or his successor his in title) to determine it other than by forfeiture, earlier than at the end of the term and
   (c) the house or dwelling is occupied by a person to whom the tenancy was granted or his successor in title or by any members of either of those person’s family.

**Certain family arrangements**

7. A tenancy or licence of a house or a dwelling within a house where –
   (a) the person who has granted the tenancy or licence to occupy is a member of the family of the person who has been granted the tenancy or licence and
   (b) the person who has granted the tenancy or licence to occupy is the freeholder or long leaseholder of the house or dwelling and
(c) the person occupies the house or dwelling as his only or main residence (and if there are two or more persons at least one of them so occupies).

**Holiday lets**

8. A tenancy or licence of a house or a dwelling within a house that has been granted to the person for the purpose of a holiday.

**Certain lettings etc by Resident Landlord etc**

9. A tenancy or licence of a house or a dwelling within a house under the terms of which the person granted the tenancy or licence shares the use of any amenity with the person granting that tenancy or licence or members of that person’s family. An “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.

**Interpretation**

10. In this Annex:

(a) a “person” includes “persons”, where the context is appropriate;

(b) a “tenancy” or “licence” includes “a joint tenancy” or “joint licence”, where the context is appropriate;

(c) “long leaseholder” in paragraph 7 (ii) has the meaning conferred in paragraphs 6 (i) and (ii) and in those paragraphs the reference to “tenancy” means a “long lease”;

(d) a person is a member of the family of another person if –

   (i) he lives with that person 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 the other member of the couple and

   (iv) For the purpose of this paragraph –
(1) “couple” means two persons who are married to each other or live together as husband and wife or in an equivalent arrangement in the case of persons of the same sex;

(2) “relative” means a parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;

(3) a relationship of the half-blood is to be treated as a relationship of the whole blood and

(4) a stepchild of a person is to be treated as his child.

Notes:

[8] Sections 79 (2) and 99 of the Act
[9] For the definition of a dwelling – see section 99 of the Act
[10] See paragraph 5 of Schedule 1 of the 1988 Act as amended by section 198 (1) and paragraph 108 of schedule 6 of the Licensing Act 2003
[13] For the definition of “person managing” and “person having control” see section 263 of the Act
[17] SI 238/2001. Section 66 (4) of the Nationality, Immigration and Asylum Act 2002 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
[18] SI 850/2001


[22] See the schedule to The Houses in Multiple Occupation (Specified Educational Establishments) (England) (No 2) Regulations 2006 for the list of specified bodies