

These notes refer to the Houses in Multiple Occupation Act (Northern Ireland) 2016 (c.22) which received Royal Assent on 12 May 2016

Houses in Multiple Occupation Act (Northern Ireland) 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Standards of Housing

Chapter 1: Overcrowding

Section 41: Definition of overcrowding

This section defines an HMO as being overcrowded when the number of persons sleeping in it contravenes either the room standard or the space standard.

Section 42: The room standard

This section outlines the circumstances which are designated as a contravention of the room standard. These are circumstances in which persons aged 13 or over must share with another person of that age or with a couple.

Section 43: The space standard

This section outlines the circumstances which may be designated as a contravention of the space standard. These relate to the amount of floor space there is in the property for each person resident of it.

Sections 44 and 45: Overcrowding notices

Sections 44 and 45 give the council the power to issue a notice where they believe an HMO is, or is likely to become overcrowded. An overcrowding notice must, for each room, either stipulate the maximum number of persons who may occupy the room or specify that the room is unsuitable for occupation. This makes clear the maximum possible sleeping arrangement in the house.

Section 46: Requirement as to overcrowding generally

The requirement under section 46 requires that the terms of the notice must not be breached by allowing an unsuitable room to be occupied as sleeping accommodation and that the room standard must not be contravened. A notice

including this requirement can have the effect of requiring the owner to reduce the occupancy of the house immediately – for example, by terminating a tenancy.

Section 47: Requirement not to permit new residents

Section 47 is very similar in its effect to Section 46, except that it covers occupation by new residents i.e. anyone not resident when the notice was served. This allows the existing situation to continue, even if the house is “overcrowded”.

Section 48: Notice requiring further information

Section 48 allows the council to serve a notice requiring further information in relation to overcrowding. The information requested may be, among other things, the number of people sleeping within the HMO, the names of those individuals, the number of households to which they belong and the rooms used by the individuals and households respectively. This information may be used to determine whether an overcrowding notice has been breached, but may not be used in criminal proceedings against the person providing the information.

Section 49: Information notice: supplementary provisions

Section 49 provides that a person commits an offence if they fail to provide information requested by an information notice or if they provide false or misleading information.

Chapter 2: Suitability for Numbers in Occupation

Section 50: Suitability notice

This section makes arrangements about HMO suitability notices. Such a notice can be served in relation to any HMO which the local authority considers is not reasonably fit for occupation by the number of persons occupying it.

Section 51: Contents of suitability notice

Section 51 directs that a suitability notice must specify what the council considers to be the maximum number of persons by whom the HMO is suitable to be occupied. A suitability notice must contain either the general occupancy requirement or the new residents’ occupancy requirement. It may also contain a statement of remedial work.

Section 52: Occupancy requirements

Section 52 sets out that the general occupancy requirement is that the person on whom the notice is served must refrain from permitting more than the maximum number of persons to occupy the HMO. As with the similar requirement in an overcrowding notice, this can have the effect of requiring the owner to reduce the occupancy of the house immediately – for example, by terminating a tenancy. The new residents’ occupancy requirement is that the person on whom the notice

is served must refrain from permitting any new resident to occupy the HMO if that person's occupation results in the HMO being occupied by more than the maximum number of persons. This can be used where the council considers that, although the accommodation is unsuitable for its current number of occupants, the balance lies in favour of letting the current situation remain (rather than requiring the immediate departure of one or more residents).

Section 53: Statement of remedial work

Section 53 sets out that a statement of remedial work is a statement of work which the owner of the HMO may undertake and which, if done, will lead to the lifting of the suitability notice. Although the owner is not required to carry out the work, they can choose to do so as an alternative to having the restriction on occupancy imposed by the suitability notice.

Chapter 3: Hazards

Section 54: Definition of a hazard

Section 54 defines that a hazard in an HMO is something that constitutes a risk of harm to the health or safety of an actual or potential occupier. The risk may arise from a deficiency in the accommodation forming the HMO, any building or land the accommodation forms part of, or any building or land in the vicinity of that accommodation.

Section 55: Hazard notice

This section makes arrangements about hazard notices. Such a notice can be served where a council is satisfied that a hazard exists in relation to an HMO. There is also provision for this notice to be treated as an "emergency hazard notice" that can come into operation immediately where there is an imminent risk to any of the occupiers of the HMO.

Section 56: Contents of hazard notice: prohibitions

A hazard notice may impose prohibitions on the use of any premises as the council considers appropriate in view of the hazard(s) to which the notice relates. Where the hazard affects a flat, the prohibition may cover the use of any part of the building containing the flat or any external common parts. A prohibition may include a requirement to obtain the approval of the council for the use of the property in particular ways.

Section 57: Contents of hazard notice: other matters

A hazard notice must specify in relation to each hazard: the nature of the hazard; the HMO in which it exists; the deficiency giving rise to the hazard; and the date on which the notice is made.

Section 58: Works requirement

A hazard notice may also contain a works requirement. [Section 58](#) sets out that a works requirement is that an owner carries out work in order to remove the hazard. The work must be specified in the notice and can be anything which the council regards as appropriate for removing the hazard. If the work is done, the hazard notice must be lifted.

Section 59: Approvals as to the use of premises

This section states that any approval of the council with regards to a prohibition placed on a property must not be unreasonably withheld and that the owner may appeal to a magistrates' court against a refusal to give approval.

Chapter 4: Further Provisions about Notices under This Part

Section 60: Offences

This section sets out the key criminal offences regarding notices under Part 4 of the Act. These relate to failure to comply with requirements set out in a notice.

Section 61: Further provisions

[Section 61](#) introduces [Schedule 5](#), which makes further provisions about notices under this Part.