

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 1: Meaning of “House in Multiple Occupation”

Section 1: Meaning of “house in multiple occupation”

A House in Multiple Occupation (HMO) is defined in Section 1 as a building or part of a building (e.g., a flat) that is classed as living accommodation and is occupied by three or more people, who are members of more than two households. Additionally, accommodation is not an HMO unless rents are payable or other consideration is provided in respect of the accommodation. The section also introduces Schedule 1 (exceptions) and confers a power to amend the definition of “house in multiple occupation”.

Section 2: Definition of living accommodation

Section 2 defines “living accommodation” for the purposes of section 1. A building, or part of a building, is living accommodation (i) if it is capable of being occupied as a separate dwelling **or** (ii) if it forms part of any building or group of buildings in single ownership and its occupants share a toilet, personal washing facilities or facilities for the preparation or provision of cooked food. “Single ownership” is defined in subsections (2) and (3) in a way which prevents avoidance of the legislation by artificially dividing ownership of a property between members of a family or connected companies.

Section 3: Cases where person is treated as occupying accommodation as only or main residence

Section 3 outlines the fact that people count as occupants only if the accommodation is their only or main residence. However, accommodation occupied by a student during term time is regarded as that person’s only or main residence. People staying in domestic violence refuges are to be treated as occupying them as their only or main residence. A seasonal worker who is resident in accommodation during the period that they are engaged in seasonal work, are treated as occupying it as their only or main residence.

Section 4: Persons who are members of the same household

Section 4 specifies the meaning of “household” for the purposes of HMO licensing. This includes members of the same “family”: the definition of family includes married, unmarried and same-sex couples, and step children, as well as blood relatives. Additionally, a person who is a personal or domestic carer in a residential capacity is to be treated as a member of the household for the purposes of this Act. There is a power for the Department to provide that other persons are treated as being in the same “household”.

Section 5: Notice regarding evidence of household

Section 5 makes provision for a council to serve a notice on the occupants of a house where the council believe there are three or more people residing in the property and these people form more than two separate households. If insufficient evidence is provided that the house is not an HMO, the house is to be regarded as being one.

Section 6: Notice regarding continuation of occupation

Section 6 makes provision for a council to serve a notice on a property that has ceased to operate as an HMO, because its occupants have reduced below 3, but which the council believe is likely to become an HMO again within 4 months. For example a student house during the summer months can then be treated as an HMO for certain regulatory purposes, even though it may actually have fewer than 3 people residing in it during those months.