



2016 CHAPTER 22

PART 4

Standards of housing

CHAPTER 1

Overcrowding

Definition

Definition of overcrowding

41. An HMO is overcrowded for the purposes of this Chapter when the number of persons who sleep in it is such as to contravene—

- (a) the room standard (set out in section 42), or
- (b) the space standard (set out in section 43).

The room standard

42.—(1) The room standard is contravened when the number of persons who sleep in the HMO and the number of rooms available as sleeping accommodation are such that any person aged 13 or over must sleep in the same room as—

- (a) any person of the opposite sex who is also aged 13 or over, or
- (b) a couple (within the meaning given by section 88(3)(a)).

(2) For this purpose, a room is available as sleeping accommodation if it is of a type normally used in the locality either as a bedroom or as a living room.

The space standard

43.—(1) The space standard is contravened when the number of persons who sleep in the HMO exceeds the permitted number for that HMO.

(2) In determining for the purpose of subsection (1) the number of persons who sleep in an HMO—

- (a) no account is to be taken of a child under the age of one, and
- (b) a child aged 11 or less (but aged at least one) is to be counted as one-half of a person.

(3) To calculate the permitted number for an HMO—

- (a) for each room in the HMO which is available as sleeping accommodation, determine, by reference to what type of room it is, which of Tables 1, 2 and 3 applies to that room,
- (b) determine, by reference to the floor area of the room, the permitted number of persons for that room, and
- (c) add together the permitted numbers for each of the rooms in the HMO.

The total is the permitted number for the HMO.

Table 1 - Rooms which are a bedroom (only)

<i>Floor area of room</i>	<i>Permitted number for the room</i>
Less than 6.5m ²	No account is to be taken of the room
6.5m ² or more but less than 11m ²	1
11m ² or more but less than 15m ²	2
15m ² or more but less than 19.5m ²	3
19.5m ² or more	4 plus one additional person for each 4.5m ² in excess of 19.5m ²

Table 2 - Rooms which are a bedroom and living room

<i>Floor area of room</i>	<i>Permitted number for the room</i>
Less than 10m ²	No account is to be taken of the room
10m ² or more but less than 15m ²	1
15m ² or more but less than 19.5m ²	2
19.5m ² or more	3 plus one additional person for each 4.5m ² in excess of 19.5m ²

Table 3 - Rooms which are a bedroom, living room and kitchen

<i>Floor area of room</i>	<i>Permitted number for the room</i>
Less than 13m ²	No account is to be taken of the room

Status: This is the original version (as it was originally enacted).

<i>Floor area of room</i>	<i>Permitted number for the room</i>
13m ² or more but less than 20.5m ²	1
20.5m ² or more	2 plus one additional person for each 4.5m ² in excess of 20.5m ²

(4) For the purpose of subsection (3), a room is available as sleeping accommodation if it is of a type normally used in the locality as a bedroom, as a bedroom and living room or as a bedroom, living room and kitchen (as the case may be).

(5) The Department may make regulations which specify the manner in which the floor area of a room is to be determined for the purposes of this section.

(6) The regulations may, in particular, provide for the exclusion from computation, or the bringing into computation at a reduced figure, of floor space in a part of the room which is of less than a height specified in the regulations.

(7) A certificate of the council stating the number and floor areas of the rooms in an HMO, and that the floor areas have been determined in the manner specified in regulations, is evidence for the purposes of legal proceedings of the matters stated in it.

Overcrowding notices

Overcrowding notices

44.—(1) This section applies where a council believes that—

- (a) an HMO is overcrowded, or
- (b) an HMO is likely to become overcrowded.

(2) The council may issue a notice which complies with section 45 (an “overcrowding notice”).

(3) At least 7 days before issuing an overcrowding notice, the council must serve a notice which—

- (a) states the council’s belief mentioned in subsection (1),
- (b) states the grounds for that belief, and
- (c) invites the person on whom the notice is served to make, within the period of 7 days beginning with the date of service of the notice, representations about the proposal to issue the overcrowding notice.

(4) Notice under subsection (3) must be served on—

- (a) any person appearing to the council to be the owner of the HMO;
- (b) any person appearing to the council to be a managing agent of the HMO.

(5) The council must send a copy of the notice to the occupants of the HMO.

(6) In determining whether to issue an overcrowding notice, the council must have regard to any representations made within the period mentioned in subsection (3)(c).

Contents of overcrowding notice

45.—(1) An overcrowding notice must state, in relation to each room in the HMO and in accordance with section 43—

- (a) what is the permitted number of persons for that room, or
- (b) that the room is unsuitable to be occupied as sleeping accommodation.

(2) An overcrowding notice must contain—

- (a) the requirement as to overcrowding generally (set out in section 46), or
- (b) the requirement not to permit new residents (set out in section 47).

(3) A council which has issued an overcrowding notice containing the requirement not to permit new residents may, at any time, withdraw that notice and issue instead an overcrowding notice containing the requirement as to overcrowding generally.

(4) If the permitted number for a licensed HMO (calculated in accordance with section 43(3)) is less than the number of persons authorised to occupy the HMO as specified in the licence, the overcrowding notice must state that the council proposes to vary the licence accordingly.

(5) Schedule 4 (procedure for varying or revoking licences) does not apply to a proposal to vary a licence under subsection (4); but the proposal does not have effect unless and until the overcrowding notice becomes operative in accordance with paragraph 2 of Schedule 5.

(6) An overcrowding notice may state that its operation is suspended in accordance with paragraph 4 of Schedule 5.

Requirement as to overcrowding generally

46.—(1) The requirement as to overcrowding generally is that the person on whom the notice is served must refrain from—

- (a) permitting any room to be occupied as sleeping accommodation otherwise than in accordance with the overcrowding notice, and
- (b) permitting such number of persons to occupy the HMO as sleeping accommodation that it is not possible to comply with the room standard (see section 42).

(2) The reference in subsection (1)(b) to complying with the room standard is to doing so on the assumption that—

- (a) the persons occupying the HMO as sleeping accommodation sleep only in rooms for which a maximum is set by the notice, and

- (b) the maximum set for each room is not exceeded.

Requirement not to permit new residents

47.—(1) The requirement not to permit new residents is that the person on whom the notice is served must refrain from—

- (a) permitting any room to be occupied by a new resident as sleeping accommodation otherwise than in accordance with the notice, and
- (b) permitting a new resident to occupy any part of the HMO as sleeping accommodation if the result of doing so is that it is not possible to comply with the room standard (see section 42).

(2) In subsection (1) “new resident” means a person who was not an occupier of the HMO immediately before the notice was served.

(3) The reference in subsection (1)(b) to complying with the room standard is to doing so on the assumption that—

- (a) the persons occupying the HMO as sleeping accommodation sleep only in rooms for which a maximum is set by the notice, and
- (b) the maximum set for each room is not exceeded.

Notice requiring further information

48.—(1) A council that issues an overcrowding notice in relation to an HMO may issue a notice under this section (an “information notice”) in relation to that HMO.

(2) An information notice is a notice that requires the person on whom it is served to supply to the council a statement giving all or any of the following particulars—

- (a) the number of individuals who are, on a date specified in the notice, occupying any part of the HMO as sleeping accommodation;
- (b) the names of those individuals;
- (c) the number of households to which the individuals belong;
- (d) the relationships between the individuals, and the household to which each individual belongs; and
- (e) the rooms used by the individuals and households respectively.

(3) An information notice may be served on—

- (a) any person on whom the overcrowding notice is required to be served under paragraph 1 of Schedule 5, or
- (b) any person to whom a copy of the overcrowding notice is required to be sent under that paragraph.

(4) An information notice must require the statement to be supplied—

- (a) in writing, and
 - (b) within 7 days of the date of the notice or such longer period as the council may specify in the notice.
- (5) An information notice may be combined with, or issued after, the overcrowding notice.

Information notice: supplementary provisions

- 49.—(1) A person commits an offence if the person—
- (a) refuses or fails to provide information as required by an information notice, and
 - (b) does not have a reasonable excuse for that refusal or failure.
- (2) A person commits an offence if—
- (a) the person provides information in response to an information notice,
 - (b) the information is false or misleading in a material particular, and
 - (c) the person knows that it is, or is reckless as to whether it is, false or misleading.
- (3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) Information provided by a person in response to an information notice may be used in criminal proceedings as evidence against the person only where subsection (5) or (6) applies.
- (5) This subsection applies where the person is being prosecuted for an offence under Article 7 or 10 of the Perjury (Northern Ireland) Order 1979 (false statutory declarations and other false unsworn statements).
- (6) This subsection applies where the person is being prosecuted for any other offence and—
- (a) in giving evidence the person makes a statement inconsistent with the information provided in response to the notice, and
 - (b) evidence relating to that information is adduced, or a question about it is asked, by or on behalf of the person.