

Status: This version of this schedule contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Houses in Multiple Occupation Act (Northern Ireland) 2016, SCHEDULE 2. (See end of Document for details)

PROSPECTIVE

SCHEDULES

SCHEDULE 2

Section 8.

Applications for HMO licences: requirements and procedure
CONTENT OF APPLICATION

- 1.—(1) An application for an HMO licence must be in writing and in such form as the council may specify by general notice.
- (2) The application must include the following information—
- (a) the address of the living accommodation in question,
 - (b) if the owner is an individual, the owner's name and address,
 - (c) if the owner is a body, the information set out in sub-paragraph (3),
 - (d) if there is to be a managing agent of the HMO—
 - (i) if the agent is an individual, the agent's name and address, or
 - (ii) if the agent is a body, the information set out in sub-paragraph (3),
 - (e) the name and address of any person (other than the owner) who has a relevant interest in the HMO (see sub-paragraph (4)),
 - (f) the maximum number of persons who it is proposed will occupy the accommodation as their only or main residence at any one time,
 - (g) any other information which the Department may by regulations require to be set out in such applications, and
 - (h) any other information which the council may specify by general notice.
- (3) The information referred to in sub-paragraph (2)(c) and (d)(ii) is—
- (a) the name of the body,
 - (b) the address of its main office or place of business,
 - (c) the name and address of each of its directors or partners, or other persons involved in its management.
- (4) In sub-paragraph (2)(e), a “relevant interest” is—
- (a) a freehold estate;
 - (b) a leasehold estate, unless the unexpired term of the lease is 3 years or less;
 - (c) a mortgage, charge or lien.

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(5) The council may require the application to be accompanied by a fee fixed by the council (see also section 84 in relation to such fees).

(6) Sub-paragraph (5) is subject to paragraph 7(2).

PUBLICATION OF APPLICATION

Regulations regarding notice of application

2.—(1) The Department must make regulations providing for the giving of notice of the making of applications for an HMO licence.

(2) Regulations under sub-paragraph (1) may in particular—

- (a) require the applicant to cause notice of an application to be displayed on or near the HMO in question, or to cause such notice to be published in one or more newspapers circulating in the locality of the HMO;
- (b) permit or require the council to cause such notice to be displayed or published, either at the council's expense or at the applicant's expense;
- (c) specify information which must be displayed or published in or together with notice of an application, which may include notice of a right to make representations about the application and of the manner and period in which such representations must be made;
- (d) specify requirements as to the form and manner of notice of an application, and the period for which it must be displayed or published;
- (e) provide (subject to such conditions as may be specified in the regulations) for exceptions from any requirement to display or publish notice, in particular where the council is satisfied that displaying or publishing a notice would be likely to jeopardise the safety or welfare of any persons or the security of any premises;
- (f) provide for the consequences of failing to comply with requirements imposed by the regulations (and such consequences may include permitting or requiring the council to cease to consider the application in question).

Notice to statutory authorities

3. The council must send a copy of any application for an HMO licence to the statutory authorities.

Representations in response to notices

4.—(1) A representation made in response to a notice under regulations under paragraph 2 is valid only if it—

- (a) is made in writing,

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(b) sets out the name and address of the person making the representation, and

(c) is made on or before the deadline for making written representations.

(2) The deadline for making written representations is to be set out in, or determined under, regulations made by the Department.

REFUSAL OF APPLICATION: BREACH OF PLANNING CONTROL

5. Paragraphs 6 and 7 apply where the council is not satisfied that the occupation of the living accommodation as an HMO would not constitute a breach of planning control (within the meaning given by section 131 of the Planning Act (Northern Ireland) 2011).

6.—(1) The council must serve on the applicant a notice which—

(a) states that the council has decided to refuse the application,

(b) sets out the reason for the decision, and

(c) sets out the effect of paragraph 7.

(2) The notice must be served on the applicant before the end of the period of 28 days beginning with the day on which the application is made.

(3) The council must send a copy of the notice to the statutory authorities.

7.—(1) This paragraph applies if, after the council has refused an application under paragraph 6, the applicant obtains—

(a) planning permission under Part 3 of the Planning Act (Northern Ireland) 2011, or

(b) a certificate of lawfulness of use or development under section 169 or 170 of that Act,

in respect of the occupation of the living accommodation as an HMO.

(2) If—

(a) the applicant makes a further application for an HMO licence in respect of the living accommodation, and

(b) does so before the end of the period of 28 days beginning with the date on which the applicant obtains the permission or certificate,

no fee may be charged in respect of that application.

CONSIDERATION OF APPLICATION AND HEARINGS

8. Paragraphs 9 to 13 apply where the council does not consider that occupation of the living accommodation would constitute a breach of planning control (within the meaning given by section 131 of the Planning Act (Northern Ireland) 2011).

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Notice of proposed decision

9.—(1) The council must serve a notice under this paragraph on—

- (a) the applicant, and
- (b) each relevant person.

(2) A notice under this paragraph must state which of the following the council proposes to do—

- (a) grant the licence in the terms applied for;
- (b) grant the licence in terms different from those applied for;
- (c) refuse the licence.

(3) A notice under this paragraph must also—

- (a) if the council proposes to grant the licence, set out the main terms of the proposed licence and any terms which differ from those applied for,
- (b) state the reasons for the proposed decision (including any proposed differences), and
- (c) specify the date by which written representations by the recipient of the notice must be made.

(4) The date specified under sub-paragraph (3)(c) must be not less than 14 days after the date on which the notice is served.

(5) The notice must be accompanied by a copy of any valid representations received by the council in response to a notice under regulations under paragraph 2.

(6) In this Schedule, a “relevant person” is any of the following (other than the applicant)—

- (a) a person named in the application in accordance with paragraph 1(2)(d) or (e) (managing agents and persons having an estate in the HMO);
- (b) a person who is not so named but who, to the knowledge of the council—
 - (i) is or is proposed to be a managing agent of the HMO, or
 - (ii) has a relevant interest in it (see sub-paragraph (7));
- (c) a person who is proposed to be named in the licence as a person on whom a restriction or obligation is imposed under section 14.

(7) In sub-paragraph (6)(b), a “relevant interest” is—

- (a) a freehold estate;
- (b) a leasehold estate, unless the unexpired term of the lease is 3 years or less;
- (c) a mortgage, charge or lien.

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Hearings

10.—(1) This paragraph applies if the council decides (whether on a submission by the applicant or a relevant person, or on its own initiative) to hear oral representations about the application.

(2) The council must serve notice of the hearing on—

- (a) the applicant,
- (b) every relevant person,
- (c) every person who made valid representations in response to a notice under regulations under paragraph 2, and
- (d) any other person the council considers appropriate.

(3) The notice must state the date, time and place of the hearing.

(4) The notice must be served not less than 7 days before the date of the proposed hearing.

(5) “Relevant person” has the meaning given by paragraph 9(6).

Consideration of application

11. In determining whether to grant the licence (and in what terms) the council must consider—

- (a) any valid representations made in response to a notice under regulations under paragraph 2,
- (b) any written representations made by a recipient of a notice under paragraph 9 before the date specified under paragraph 9(3)(c), and
- (c) any oral representations made at a hearing under paragraph 10.

Time limit for determining application

12.—(1) The council must decide whether to grant or refuse an application for an HMO licence before the end of the period of 3 months beginning with the date on which the council received it.

(2) A court of summary jurisdiction may extend the period mentioned in sub-paragraph (1) in the case of a particular HMO application.

(3) An order under sub-paragraph (2) is to be made on an application made by the council before the end of the period mentioned in sub-paragraph (1).

(4) The applicant for the licence is entitled to be a party to any proceedings on an application under sub-paragraph (3).

(5) The decision of a court on an application under sub-paragraph (3) is to be final.

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(6) If the council does not determine an application for an HMO licence before the end of the period mentioned in sub-paragraph (1) (or that period as extended), the applicant is to be treated as having been granted a licence in the terms applied for.

(7) Sub-paragraph (6) does not prevent the council from varying or revoking a licence which is treated as having been granted in accordance with that sub-paragraph.

Notice of determination

13.—(1) The council must serve notice of its decision on an application for an HMO licence on—

- (a) the applicant,
- (b) each relevant person (within the meaning given by paragraph 9(6)), and
- (c) the statutory authorities.

(2) The notice must—

- (a) state the council's decision,
- (b) if the decision is to grant a licence, be accompanied by a copy of the licence,
- (c) if the licence is granted in terms different from those applied for, include a statement of the reasons for that difference, and
- (d) state the date on which the decision was made.

(3) The notice must be served before the end of the period of 7 days beginning with the day on which the decision is made.

FALSE OR MISLEADING INFORMATION

14.—(1) A person commits an offence if—

- (a) the person provides information in connection with an application for an HMO licence,
- (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.

(2) A person guilty of an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

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