



Housing Act 2004

2004 CHAPTER 34

PART 2

LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Enforcement

73 Other consequences of operating unlicensed HMOs: rent repayment orders

- (1) For the purposes of this section an HMO is an “unlicensed HMO” if—
 - (a) it is required to be licensed under this Part but is not so licensed, and
 - (b) neither of the conditions in subsection (2) is satisfied.
- (2) The conditions are—
 - (a) that a notification has been duly given in respect of the HMO under section 62(1) and that notification is still effective (as defined by section 72(8));
 - (b) that an application for a licence has been duly made in respect of the HMO under section 63 and that application is still effective (as so defined).
- (3) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of—
 - (a) any provision requiring the payment of rent or the making of any other periodical payment in connection with any tenancy or licence of a part of an unlicensed HMO, or
 - (b) any other provision of such a tenancy or licence.
- (4) But amounts paid in respect of rent or other periodical payments payable in connection with such a tenancy or licence may be recovered in accordance with subsection (5) and section 74 [^{F1}(in the case of an HMO in Wales) or in accordance with Chapter 4 of Part 2 of the Housing and Planning Act 2016 (in the case of an HMO in England)] .
- (5) If—

Changes to legislation: Housing Act 2004, Section 73 is up to date with all changes known to be in force on or before 22 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) an application in respect of an HMO is made to [^{F2}the appropriate tribunal] by the local housing authority or an occupier of a part of the HMO [^{F3}in Wales], and
 - (b) the tribunal is satisfied as to the matters mentioned in subsection (6) or (8), the tribunal may make an order (a “rent repayment order”) requiring the appropriate person to pay to the applicant such amount in respect of the [^{F4}relevant award or awards of universal credit or the] housing benefit paid as mentioned in subsection (6)(b), or (as the case may be) the periodical payments paid as mentioned in subsection (8)(b), as is specified in the order (see section 74(2) to (8)).
- (6) If the application is made by the local housing authority, the tribunal must be satisfied as to the following matters—
- (a) that, at any time within the period of 12 months ending with the date of the notice of intended proceedings required by subsection (7), the appropriate person has committed an offence under section 72(1) in relation to the HMO (whether or not he has been charged or convicted),
 - [^{F5}(b) that—
 - (i) one or more relevant awards of universal credit have been paid (to any person); or
 - (ii) housing benefit has been paid (to any person) in respect of periodical payments payable in connection with the occupation of a part or parts of the HMO ,
 during any period during which it appears to the tribunal that such an offence was being committed,]
 - (c) that the requirements of subsection (7) have been complied with in relation to the application.
- [^{F6}(6A) In subsection (6)(b)(i), “relevant award of universal credit” means an award of universal credit the calculation of which included an amount under section 11 of the Welfare Reform Act 2012, calculated in accordance with Schedule 4 to the Universal Credit Regulations 2013 (housing costs element for renters) ([S.I. 2013/376](#)) or any corresponding provision replacing that Schedule, in respect of periodical payments payable in connection with the occupation of a part or parts of the HMO.]
- (7) Those requirements are as follows—
- (a) the authority must have served on the appropriate person a notice (a “notice of intended proceedings”)—
 - (i) informing him that the authority are proposing to make an application under subsection (5),
 - (ii) setting out the reasons why they propose to do so,
 - (iii) stating the amount that they will seek to recover under that subsection and how that amount is calculated, and
 - (iv) inviting him to make representations to them within a period specified in the notice of not less than 28 days;
 - (b) that period must have expired; and
 - (c) the authority must have considered any representations made to them within that period by the appropriate person.
- (8) If the application is made by an occupier of a part of the HMO, the tribunal must be satisfied as to the following matters—

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- (a) that the appropriate person has been convicted of an offence under section 72(1) in relation to the HMO, or has been required by a rent repayment order to make a payment in respect of
- (i)

Textual Amendments

- F1** Words in s. 73(4) inserted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), [ss. 50\(2\)\(a\)](#), 216(3); [S.I. 2017/281](#), [reg. 4\(c\)](#)
- F2** Words in s. 73(5)(a) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), [art. 1](#), [Sch. 1 para. 155](#) (with [Sch. 3](#))
- F3** Words in s. 73(5)(a) inserted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), [ss. 50\(2\)\(b\)](#), 216(3); [S.I. 2017/281](#), [reg. 4\(c\)](#)
- F4** Words in s. 73(5) inserted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), [regs. 1\(2\)](#), [18\(2\)\(a\)](#) and words in s. 73(5) inserted (W.) (17.7.2013) by [The Universal Credit \(Consequential Provisions\) \(Childcare, Housing and Transport\) \(Wales\) Regulations 2013 \(S.I. 2013/1788\)](#), [regs. 1\(1\)](#), [3\(2\)\(a\)](#)
- F5** S. 73(6)(b) substituted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), [regs. 1\(2\)](#), [18\(2\)\(b\)](#) and s. 73(6)(b) substituted (W.) (17.7.2013) by [The Universal Credit \(Consequential Provisions\) \(Childcare, Housing and Transport\) \(Wales\) Regulations 2013 \(S.I. 2013/1788\)](#), [regs. 1\(1\)](#), [3\(2\)\(b\)](#)
- F6** S. 73(6A) inserted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), [regs. 1\(2\)](#), [18\(2\)\(c\)](#) and S. 73(6A) inserted (W.) (17.7.2013) by [The Universal Credit \(Consequential Provisions\) \(Childcare, Housing and Transport\) \(Wales\) Regulations 2013 \(S.I. 2013/1788\)](#), [regs. 1\(1\)](#), [3\(2\)\(c\)](#)
- F7** Words in s. 73(8)(a) substituted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), [regs. 1\(2\)](#), [18\(2\)\(d\)](#) and words in s. 73(8)(a) substituted (W.) (17.7.2013) by [The Universal Credit \(Consequential Provisions\) \(Childcare, Housing and Transport\) \(Wales\) Regulations 2013 \(S.I. 2013/1788\)](#), [regs. 1\(1\)](#), [3\(2\)\(d\)](#)
- F8** Words in s. 73(10) inserted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), [regs. 1\(2\)](#), [18\(2\)\(e\)\(i\)](#) and words in s. 73(10) inserted (W.) (17.7.2013) by [The Universal Credit \(Consequential Provisions\) \(Childcare, Housing and Transport\) \(Wales\) Regulations 2013 \(S.I. 2013/1788\)](#), [regs. 1\(1\)](#), [3\(2\)\(e\)\(i\)](#)
- F9** Words in s. 73(10) substituted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), [regs. 1\(2\)](#), [18\(2\)\(e\)\(ii\)](#) and words in s. 73(10) substituted (W.) (17.7.2013) by [The Universal Credit \(Consequential Provisions\) \(Childcare, Housing and Transport\) \(Wales\) Regulations 2013 \(S.I. 2013/1788\)](#), [regs. 1\(1\)](#), [3\(2\)\(e\)\(ii\)](#)
- F10** Words in s. 73(11)(b) inserted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), [regs. 1\(2\)](#), [18\(2\)\(f\)](#) and words in s. 73(11)(b) inserted (W.) (17.7.2013) by [The Universal Credit \(Consequential Provisions\) \(Childcare, Housing and Transport\) \(Wales\) Regulations 2013 \(S.I. 2013/1788\)](#), [regs. 1\(1\)](#), [3\(2\)\(f\)](#)

Commencement Information

- II** S. 73 wholly in force at 16.6.2006; s. 73 not in force at Royal Assent see s. 270(4)(5); s. 73 in force for E. at 6.7.2006 by [S.I. 2006/1060](#), [art. 2\(2\)\(a\)](#) (with [Sch.](#)); s. 73 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

Changes to legislation:

Housing Act 2004, Section 73 is up to date with all changes known to be in force on or before 22 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1A) inserted by [2016 c. 22 s. 125\(3\)\(a\)](#)
- s. 66(3A)(3B) inserted by [2016 c. 22 s. 125\(3\)\(c\)](#)
- s. 89(1A) inserted by [2016 c. 22 s. 125\(6\)\(a\)](#)
- s. 89(3A)(3B) inserted by [2016 c. 22 s. 125\(6\)\(c\)](#)
- s. 139(7A)(7B) inserted by [2016 c. 22 s. 127\(3\)](#)