



Housing (Scotland) Act 2006

2006 asp 1

PART 5

LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Offences etc.

155 Defences

- (1) The owner of an HMO which requires to be licensed under this Part but which is not so licensed has reasonable excuse for not holding an HMO licence if—
 - (a) either of the circumstances mentioned in subsection (2) apply, and
 - (b) the owner—
 - (i) has taken reasonable steps with a view to securing that the living accommodation concerned stops being an HMO which requires to be licensed under this Part, but
 - (ii) despite having taking those steps, is unable to stop it from being such an HMO without breaching the terms of any tenancy or occupancy arrangement under which any person occupied it on the day on which the HMO licence was revoked or, as the case may be, on which the exemption ceased to have effect.
- (2) The circumstances mentioned in subsection (1)(a) are—
 - (a) that an HMO licence held by the owner in respect of the HMO has been revoked,
 - (b) that the HMO requires to be licensed under this Part by virtue only of the fact that an exemption provided by an order by the local authority under section 127(2) has ceased to have effect.
- (3) A licence holder has reasonable excuse for breaching a condition of an HMO licence if the licence holder—
 - (a) has taken reasonable steps with a view to securing that the condition is not breached, but
 - (b) despite having taken those steps, cannot secure compliance with the condition without breaching the terms of any tenancy or occupancy arrangement under which any person occupied the living accommodation concerned on the day

Status: This is the original version (as it was originally enacted).

on which the HMO licence was granted or, as the case may be, varied so as to include that condition.

- (4) Subsections (1) and (3) do not affect the generality of the defence of reasonable excuse.
- (5) It is not an offence under section 154(2)(b) or (4)(b) to permit or, as the case may be, to do anything which permits or facilitates the occupation by any person of the living accommodation concerned if that person occupied it on the day from which the requirement in question has effect.
- (6) Where—
- (a) the owner of living accommodation has applied for an HMO licence in respect of it, and
 - (b) the local authority has not determined the application,
- it is not an offence to do anything as agent for that owner which would otherwise be an offence under section 154(4)(a) if that act does not entitle a person to occupy the living accommodation before an HMO licence is granted in respect of it.