



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 5

#### LICENSING OF HOUSES IN MULTIPLE OCCUPATION

##### *General and supplementary*

#### **160 HMO register**

- (1) A local authority must keep a register containing information about HMO licences for living accommodation situated in its area (and applications for them).
- (2) A local authority must enter in its HMO register—
  - (a) details of each application for an HMO licence including—
    - (i) the name of the applicant,
    - (ii) the address of the living accommodation concerned,
    - (iii) the name of any agent specified in the application,
    - (iv) a note of the date on which the application is made,
  - (b) a note of its decision on each such application,
  - (c) details of any HMO licence granted in pursuance of that decision including—
    - (i) a note of any conditions included in the HMO licence,
    - (ii) a note of any variation, revocation or cancellation of the HMO licence, and
  - (d) such other information as it thinks fit.
- (3) A local authority must exclude from its HMO register any information it would otherwise be required by subsection (2) to enter in the register if the authority considers that entering the information is likely to jeopardise—
  - (a) the safety or welfare of any person, or
  - (b) the security of any premises.
- (4) A local authority must make its HMO register available for public inspection at all reasonable times.
- (5) A person who requests a local authority to provide a certified copy of any entry in its HMO register is, if the request is reasonable, entitled to be given that certified copy.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Any such copy entry which purports to be certified by a proper officer of the local authority is sufficient evidence of the terms of the entry.

#### **161 Fees**

- (1) The local authority is entitled to charge a fee in relation to—
- (a) an application for an HMO licence,
  - (b) the issue of a certified copy of an HMO licence under section 140(3),
  - (c) the issue of a certified copy of an entry in the authority's HMO register.
- (2) The Scottish Ministers may by order make provision about the charging of fees under subsection (1).
- (3) Such an order may, in particular—
- (a) set the amount, or maximum amount, of any such fee,
  - (b) set out how such fees are to be arrived at,
  - (c) specify circumstances in which no fee is payable,
  - (d) specify circumstances in which fees are to be refunded.

#### **162 Grants: exercise of functions in relation to HMOs**

The Scottish Ministers may pay to a local authority such sums as they think fit for the purpose of enabling or assisting the authority to exercise its functions under this Part.

#### **163 Guidance**

- (1) A local authority must have regard to any guidance issued by the Scottish Ministers about the exercise of its functions under this Part.
- (2) Such guidance may make different provision for different cases and, in particular, for different areas, different types of living accommodation, different types of person or different types of local authority.
- (3) Before issuing any such guidance the Scottish Ministers must consult—
- (a) local authorities, and
  - (b) such other persons as they think fit.
- (4) The Scottish Ministers must issue any such guidance in such manner as they consider appropriate for the purpose of bringing it to the notice of local authorities generally or, as the case may be, the local authority concerned.
- (5) The Scottish Ministers may vary or revoke any guidance issued for the purposes of this section.

#### **164 Joint licence holders**

- (1) Where living accommodation is owned jointly by two or more persons, an application for an HMO licence for the living accommodation may be made by—
- (a) any one of those owners, or
  - (b) any two or more of those owners jointly,

and references in this Part to an “applicant” or a “licence holder” are to be construed accordingly.

- (2) Where one or more (but not all) of the joint licence holders ceases to be an owner of the living accommodation concerned, the HMO licence is to be treated as having been granted to any licence holder who remains an owner.
- (3) Where one or more (but not all) of the joint licence holders applies to the local authority to be removed as licence holders, the local authority must—
  - (a) vary the HMO licence accordingly, and
  - (b) serve notice of that variation on—
    - (i) the persons removed as licence holders,
    - (ii) the remaining licence holder,
    - (iii) the chief officer of the fire and rescue authority, and
    - (iv) the chief constable,within 7 days of the variation.
- (4) A variation under subsection (3) has effect from the day on which notice of the variation is served on the remaining licence holder.

## **165 Agents**

- (1) Where the local authority serves a notice on an applicant or licence holder under this Part (except section 144), the local authority must serve a copy of the notice (and any documents accompanying it) on any agent specified in the application or, as the case may be, the HMO licence.
- (2) But service under subsection (1) does not entitle the agent to make representations or appeal any decision under this Part except on behalf of the applicant or licence holder.

## **166 Interpretation of Part 5**

In this Part—

- “applicant” means a person who applies for an HMO licence,
- “chief constable”, when referred to in relation to any living accommodation, means the chief constable of the police force maintained for the area in which the living accommodation is situated,
- “finally determined”, in relation to an appeal to the sheriff, has the meaning given in section 159(12),
- “HMO register”, in relation to a local authority, means the register kept by it under section 160,
- “licence holder” means a person who holds an HMO licence,
- “proper officer”, in relation to a local authority, is to be construed in accordance with section 235(3) of the Local Government (Scotland) Act 1973 (c. 65).