

*These notes refer to the Houses in Multiple Occupation Act (Northern Ireland) 2016 (c.22) which received Royal Assent on 12 May 2016*

# Houses in Multiple Occupation Act (Northern Ireland) 2016

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: Licensing of Houses in Multiple Occupation**

##### ***Section 7: Requirement for HMOs to be licensed***

Section 7 requires every house in multiple occupation that is not exempted to be licensed. A licence for an HMO authorises its holder and any agent named on the licence to allow the HMO to be occupied in accordance with the licence conditions. The section also sets out that licences are to be issued by district councils for houses in their area, and the information which must be specified in a licence.

##### ***Section 8: Applications for HMO licence***

Section 8 outlines that applications must be made by the owner of the HMO. It also sets out the matters that are to be taken into account when a council is considering an application for an HMO licence. The details of the procedural requirements, in relation to an application for an HMO licence, are contained within Schedule 2.

##### ***Section 9: Breach of planning control***

Section 8(2)(a), as read with the definition in section 9, provides that an application will be refused if the council feels there has been a breach of planning control. Carrying out development without the planning permission required, or failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control. Refusals on this ground are treated slightly differently from refusals on other grounds. In particular, the refusal must be made within 28 days of the application and there is no appeal to the county court. However, if the applicant can show that there is no breach of planning control, they can make a renewed application for no additional fee.

### ***Section 10: Fit and proper persons***

Section 10 specifies matters to which the council shall have regard (in addition to other things it may consider) when deciding whether an applicant, or an applicant's agent, is a fit and proper person. A person who is disqualified under section 38 cannot be regarded as a fit and proper person. In any case, the council must consider specified matters: whether the person has committed certain types of offence, practiced unlawful discrimination or contravened housing law or landlord and tenant law; actions or failures to act in relation to antisocial behaviour (within the curtilage of the property); affecting a house let by the applicant or for which the applicant was an agent and other material considered by the local authority to be relevant.

### ***Section 11: Satisfactory management arrangements***

Section 11 outlines the considerations that a council may take into account when deciding whether suitable management arrangements are in place at application stage.

### ***Section 12: Overprovision***

Section 12 states that, in deciding whether the granting of a licence will result in overprovision, councils must have regard to the number and capacity of licensed HMOs in an area, the need for this type of accommodation in that locality and such other matters as the Department may specify through regulations. Although a first-time application for a licence can be refused on the ground that it would result in overprovision of HMOs, an application to renew a licence cannot (see section 20).

### ***Section 13: Suitability of living accommodation for multiple occupation:***

Section 8(2)(e), as read with section 13, states that councils may only grant a licence if they are satisfied that the accommodation is suitable for use as an HMO for the specified maximum number of persons, or could be made so by including conditions in the licence. The criteria that the councils must consider are given. It includes a power for the Department to set out minimum standards in regulations.

### ***Section 14: Licence conditions***

Section 14 deals with the conditions that may be contained in licences. The council may include any conditions it considers appropriate for regulating the management, use and occupation of an HMO. The Department may also specify in regulations conditions which must be included. Conditions can include dates by which they come into effect.

### ***Section 15: Temporary exemption notice***

Section 15 allows a council to issue a temporary exemption notice if the owner of an unlicensed HMO applies for one. The owner must explain the steps to be

taken to stop the premises from being an HMO (such as ensuring that the number of occupants reduces below 3, or that sufficient basic amenities for exclusive use are installed so that occupants do not have to share them), and the council must be satisfied that these steps will be successful. The HMO does not need a licence during the term of the notice, which is three months unless extended in exceptional circumstances.

#### ***Section 16: Extension of temporary exemption notice***

Section 16 allows for the extension of temporary exemption notice if the council are satisfied that special circumstances exist. A notice may be extended only once, and only for up to 3 months.

#### ***Section 17: Safety and security requirements***

Section 17 specifies that the temporary exemption notice may require the owner to carry out work to improve the safety or security of the occupants for the duration of the notice. This could include minor works or the provision of removable equipment where licence conditions would normally require permanent, fixed items.

#### ***Section 18: Revocation of temporary exemption notice***

Section 18 specifies that if a council is satisfied that an HMO owner has failed to comply with any requirement included in a temporary exemption notice, the council may revoke that notice.

#### ***Section 19: Duration of HMO licence***

Section 19 states that an HMO licence lasts for five years, or a shorter period specified in the licence which cannot be less than six months. It starts on the date when notice of the decision to grant the licence is served on the owner, or another date specified in the licence. In the case of a licence granted because the council did not come to a decision within the period required, the licence will last for one year from the end of that period.

#### ***Section 20: Renewal of licence***

Section 20 provides for the renewal of an existing licence which must be made before the current licence ceases to have effect. As noted above, breach of planning control (Section 9) and overprovision (Section 12) are not grounds for refusing an application to renew.

#### ***Section 21: Application to renew: effect on existing licence***

Section 21 specifies that where an application to renew a licence is made, the existing licence has effect until: the date of the new licence is granted, or (if the renewal application is refused) the date the current licence ceases to have effect.

### ***Section 22: Variation of licences***

Section 22 sets out the procedure for varying a licence, which a council may do for its own reasons or at the request of the licence holder. If the council proposes the variation, it must give its reasons.

### ***Section 23: Revocation of licences***

Section 23 allows a council to revoke a licence at any time. There are a number of possible grounds that may lead to the revocation of a licence. The licence holder or agent is no longer a fit and proper person under Section 10; the accommodation is not fit for human habitation; the HMO management arrangements are not satisfactory; the accommodation is no longer suitable for use as an HMO and cannot be made suitable; there has been a serious breach of a condition of the licence; there has been more than one breach of a condition (not necessarily a serious one). This Section also specifies that it does not matter if the council has taken any other action or criminal proceedings have been commenced, the licence can still be revoked.

### ***Section 24: Variation and revocation: procedure***

Section 24 introduces [Schedule 4](#), which makes provision about the procedure for varying or revoking a licence.

### ***Section 25: Restriction on applications***

Section 25 prevents the council from considering certain applications. If an application was refused on the ground that a person was not a fit and proper person, the council may not consider an application from that person (for any accommodation) within a year of the refusal. If an application was refused on a ground relating to the accommodation (where the granting of the licence would create a situation of overprovision or where the accommodation is not habitable or suitable for use as an HMO), the council may not consider an application (from anyone) in relation to that accommodation, within the same period. This restriction does not apply if the local authority is satisfied that there has been a material change of circumstances, for example if a physical feature which made the property unsuitable for licensing has been altered.

### ***Section 26: Joint licence holders***

Section 26 deals with the situation where an HMO is owned jointly by more than one person. The application for a licence may be made by one owner or jointly by more than one. Any joint licence holders can request to be removed from the licence at any time provided one owner continues to hold the licence.

### ***Section 27: Surrender of HMO licence***

Section 27 specifies that the holder of an HMO licence may surrender the licence by giving notice to the council, in the specified form, to that effect.

***Section 28: Change of ownership: effect on licence***

Section 28 outlines the effect to an HMO licence if there is a change or transfer of ownership of the property. In these situations, if the new owner applies for a licence before the change of ownership takes effect, the licence which is already in effect in respect of the HMO is to be treated as being held by the new owner until such time as their application is accepted or ultimately rejected.

***Section 29: Death of sole licence holder: effect on licence***

Section 29 transfers the licence of a deceased sole licence-holder to that person's executor. The licence expires three months after the date of death, unless the council is satisfied that it is reasonable to extend it in order to wind up the holder's estate.