
WELSH STATUTORY INSTRUMENTS

2007 No. 3229 (W.281)

HOUSING, WALES

The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007

<i>Made</i>	- - - -	<i>12 November 2007</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>13 November 2007</i>
<i>Coming into force</i>	- -	<i>5 December 2007</i>

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by sections 63(5) and (6), 65(3) and (4), 87(5) and (6), 232(3) and (7) and 234 of the Housing Act 2004⁽¹⁾ and now vested⁽²⁾ in the Welsh Ministers, make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007 and they come into force on 5 December 2007.

(2) Regulations 2 to 11 apply to any HMO⁽³⁾ in Wales which is an HMO to which section 257 of the Housing Act 2004 applies and regulation 12 applies to any HMO in Wales to which Part 2 of that Act (licensing of houses in multiple occupation) applies.

Interpretation

2. In these Regulations—

- (a) “the Act” (“*y Ddeddf*”) means the Housing Act 2004;
- (b) “fixtures, fittings or appliances” (“*gosodion, ffitiadau neu gyfarpar*”) are—
 - (i) lighting, space heating or water heating appliances;
 - (ii) toilets, baths, showers, sinks, or wash basins or any cupboards, shelving or fittings supplied in a bathroom or lavatory;

(1) 2004 c. 34. The powers conferred by sections 63(5) and (6), 65(3) and (4), 87(5) and (6), 232(3) and (7) and 234 of the Act are exercisable, as respects Wales, by the National Assembly for Wales. See the definition of the “appropriate national authority” in section 261(1) of the 2004 Act.

(2) As respects Wales, by virtue of paragraph 30(2)(c) of Schedule 11 to the Government of Wales Act 2006 (c. 32) the functions formerly exercisable by the National Assembly for Wales are now exercisable by the Welsh Ministers.

(3) For the meaning of “HMO” see sections 254 to 259 of the Act.

- (iii) cupboards, shelving or appliances used for the storage, preparation or cooking of food; and
- (iv) washing machines or other laundry appliances; and
- (c) “the manager” (“*y rheolwr*”), in relation to an HMO, means the person managing⁽⁴⁾ the HMO.

Manager’s duties: general

- 3.—(1) Regulations 4 to 10 apply subject to the following limitations—
- (a) the manager’s duty only applies in relation to such parts of the HMO over which it would be reasonable to expect the licence holder, in all the circumstances, to exercise control; and
 - (b) the manager’s duty to maintain or keep in repair is to be construed as requiring a standard of maintenance or repair that is reasonable in all the circumstances, taking account of the age, character and prospective life of the house and the locality in which it is situated.
- (2) Nothing in regulations 4 to 10 will—
- (a) require or authorise anything to be done in connection with the water supply or drainage or the supply of gas or electricity otherwise than in accordance with any enactment; or
 - (b) oblige the manager to take, in connection with those matters, any action which is the responsibility of a local authority or any other person, other than such action as may be necessary to bring the matter promptly to the attention of the authority or person concerned.

Duty of manager to provide information to occupier

4. The manager must ensure that the manager’s name, address and any telephone contact number are clearly displayed in a prominent position in the common parts of the HMO so that they may be seen by all occupiers.

Duty of manager to take safety measures

- 5.—(1) The manager must ensure that all means of escape from fire in the HMO are—
- (a) kept free from obstruction; and
 - (b) maintained in good order and repair.
- (2) The manager must ensure that any fire fighting equipment and fire alarms are maintained in good working order.
- (3) The manager must ensure that all notices indicating the location of means of escape from fire are displayed in positions within the common parts of the HMO that enable them to be clearly visible to all the occupiers.
- (4) The manager must take all such measures as are reasonably required to protect the occupiers of the HMO from injury, having regard to—
- (a) the design of the HMO;
 - (b) the structural conditions in the HMO; and
 - (c) the number of flats or occupiers in the HMO.
- (5) In performing the duty imposed by paragraph (4) the manager must in particular—
- (a) in relation to any roof or balcony that is unsafe, either ensure that it is made safe or take all reasonable measures to prevent access to it for so long as it remains unsafe; and

(4) For the meaning of “person managing” see section 263(3) of the Act.

- (b) in relation to any window the sill of which is at or near floor level, ensure that bars or other such safeguards as may be necessary are provided to protect the occupiers against the danger of accidents which may be caused in connection with such windows.

Duty of manager to maintain water supply and drainage

6.—(1) The manager must ensure that the water supply and drainage system serving the HMO is maintained in good, clean and working condition and in particular the Manager must ensure that—

- (a) any tank, cistern or similar receptacle used for the storage of water for drinking or other domestic purposes is kept in a good, clean and working condition, with a cover kept over it to keep the water in a clean and proper condition; and
- (b) any water fitting which is liable to damage by frost is protected from frost damage.

(2) The manager must not unreasonably cause or permit the water or drainage supply that is used by any occupier at the HMO to be interrupted.

(3) In this regulation “water fitting” (*“ffitiad dŵ r”*) means a pipe, tap, cock, valve, ferrule, meter, cistern, bath, water closet or soil pan used in connection with the supply or use of water, but the reference in this definition to a pipe does not include an overflow pipe or the mains supply pipe.

Duty of manager to supply and maintain gas and electricity

7.—(1) The manager must supply to the local housing authority within 7 days of receiving a request in writing from that authority the latest gas appliance test certificate the manager has received in relation to the testing of any gas appliance at the HMO by a recognised engineer.

(2) In paragraph (1), “recognised engineer” (*“peiriannydd cydnabyddedig”*) means an engineer recognised by the Council of Registered Gas Installers as being competent to undertake such testing.

(3) The manager must—

- (a) ensure that every fixed electrical installation is inspected and tested at intervals not exceeding five years by a person qualified to undertake such inspection and testing;
- (b) obtain a certificate from the person conducting that test, specifying the results of the test; and
- (c) supply that certificate to the local housing authority within 7 days of receiving a request in writing for it from that authority.

(4) The manager must not unreasonably cause the gas or electricity supply that is used by any occupier within the HMO to be interrupted.

Duty of manager to maintain common parts, fixtures, fittings and appliances

8.—(1) The manager must ensure that all common parts of the HMO are—

- (a) maintained in good and clean decorative repair;
- (b) maintained in a safe and working condition; and
- (c) kept reasonably clear from obstruction.

(2) In performing the duty imposed by paragraph (1), the manager must in particular ensure that—

- (a) all handrails and banisters are at all times kept in good repair;
- (b) such additional handrails or banisters as are necessary for the safety of the occupiers of the HMO are provided;
- (c) any stair coverings are safely fixed and kept in good repair;

- (d) all windows and other means of ventilation within the common parts are kept in good repair;
 - (e) the common parts are fitted with adequate light fittings that are available for use at all times by every occupier of the HMO; and
 - (f) subject to paragraph (3), fixtures, fittings or appliances used in common by two or more households within the HMO are maintained in good and safe repair and in clean working order.
- (3) The duty imposed by paragraph (2)(f) does not apply in relation to fixtures, fittings or appliances that the occupier is entitled to remove from the HMO or which are otherwise outside the control of the manager.
- (4) The manager must ensure that—
- (a) outbuildings, yards and forecourts which are used in common by two or more households living within the HMO are maintained in repair, clean condition and good order;
 - (b) any garden belonging to the HMO is kept in a safe and tidy condition; and
 - (c) boundary walls, fences and railings (including any basement area railings), in so far as they belong to the HMO, are kept and maintained in good and safe repair so as not to constitute a danger to occupiers.
- (5) If any part of the HMO is not in use the manager must ensure that such part, including any passage and staircase directly giving access to it, is kept reasonably clean and free from refuse and litter.
- (6) In this regulation—
- (a) “common parts” (“*rhannau cyffredin*”) means—
 - (i) the entrance door to the HMO and the entrance doors leading to each unit of living accommodation within the HMO; and
 - (ii) all such parts of the HMO as comprise staircases, lifts, passageways, corridors, halls, lobbies, entrances, balconies, porches and steps that are used by the occupiers of the units of living accommodation within the HMO to gain access to the entrance doors of their respective unit of living accommodation.

Duty of manager to maintain living accommodation

9.—(1) Subject to paragraph (4), the manager must ensure that each unit of living accommodation within the HMO and any furniture supplied with it are in clean condition at the beginning of a person’s occupation of it.

(2) Subject to paragraphs (3) and (4), the manager must ensure, in relation to each part of the HMO that is used as living accommodation, that—

- (a) the internal structure is maintained in good repair;
- (b) any fixtures, fittings or appliances within the part are maintained in good repair and in clean working order; and
- (c) every window and other means of ventilation are kept in good repair.

(3) The duties imposed under paragraph (2) do not require the manager to carry out any repair the need for which arises in consequence of use by the occupier of the occupier’s living accommodation otherwise than in a tenant-like manner.

(4) The duties imposed under paragraphs (1) and (2) do not apply in relation to furniture, fixtures, fittings or appliances that the occupier is entitled to remove from the HMO or which are otherwise outside the control of the manager.

(5) For the purpose of this regulation a person will be regarded as using their living accommodation otherwise than in a tenant-like manner where they fail to treat the property in accordance with the covenants or conditions contained in their lease or licence or otherwise fails to conduct themselves as a reasonable tenant or licensee would do.

Duty to provide waste disposal facilities

10. The manager must—

- (a) ensure that sufficient bins or other suitable receptacles are provided that are adequate for the requirements of each household occupying the HMO for the storage of refuse and litter pending their disposal; and
- (b) make such further arrangements for the disposal of refuse and litter from the HMO as may be necessary, having regard to any service for such disposal provided by the local authority.

Duties of occupiers of HMOs

11. Every occupier of the HMO must—

- (a) conduct themselves in a way that will not hinder or frustrate the manager in the performance of the manager's duties;
- (b) allow the manager, for any purpose connected with the carrying out of any duty imposed on the manager by these Regulations, at all reasonable times to enter any living accommodation or other place occupied by that person;
- (c) provide the manager, at the manager's request, with such information as the manager may reasonably require for the purpose of carrying out any such duty;
- (d) take reasonable care to avoid causing damage to anything which the manager is under a duty to supply, maintain or repair under these Regulations;
- (e) store and dispose of litter in accordance with the arrangements made by the manager under regulation 10; and
- (f) comply with the reasonable instructions of the manager in respect of any means of escape from fire, the prevention of fire and the use of fire equipment.

Amendments to the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Wales) Regulations 2006

12.—(1) The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Wales) Regulations 2006⁽⁵⁾ are amended as follows.

(2) In regulation 1(2) (application) omit the words “other than a converted block of flats to which section 257 of the Act applies,”.

(3) In regulation 2 (interpretation) after “2004” insert—

“; and

“section 257 HMO” (“*HMO adran 257*”) means an HMO which is a converted block of flats to which section 257 of the Act applies”.

(4) For regulation 8 (prescribed standards for deciding the suitability of a house for multiple occupation by a particular maximum number of households or persons) substitute—

(5) S.I. 2006/1715 (W. 177).

“Prescribed standards for deciding the suitability of a house for multiple occupation by a particular maximum number of households or persons

8.—(1) The standards prescribed for HMOs other than section 257 HMOs for the purpose of section 65 of the Act (tests as to suitability of HMO for multiple occupation) are those set out in Schedule 3.

(2) The standards prescribed for section 257 HMOs for the purpose of section 65 of the Act are—

- (a) that all bathrooms and toilets contained in each flat must be of an adequate size and layout, and all wash-hand basins must be suitably located and be fit for purpose, having regard to the age and character of the HMO, the size and layout of each flat and its existing provision for wash-hand basins, toilets and bathrooms;
- (b) those standards set out in paragraph 4(1) of Schedule 3, in so far as it is reasonably practicable to comply with them; and
- (c) those standards set out in paragraph 5 of Schedule 3.”

(5) In regulation 11 (registers of licences)—

- (a) in paragraph (2) for “The” substitute “Subject to paragraph (3), the”; and
- (b) after paragraph (2) insert—

“ (3) The particulars mentioned in sub-paragraphs (b), (c)(ii), (d) and (e) of paragraph (2) are not prescribed for any entry in a register referred to in that paragraph in respect of a licence granted in relation to a section 257 HMO.”

(6) In regulation 13 (registers of management orders)—

- (a) in paragraph (2) for “The” substitute “Subject to paragraph (4), the”; and
- (b) after paragraph (3) add—

“ (4) The particulars mentioned in sub-paragraphs (b) and (c)(ii) to (v) of paragraph (2) are not prescribed for any entry referred to in that paragraph in respect of a management order made in relation to a section 257 HMO.”

(7) In Schedule 2 (content of applications under sections 63 and 87 of the Act)—

- (a) in paragraph 2(1)(f)—
 - (i) after “for which the application is being made” insert “, except in respect of an application in respect of a section 257 HMO”;
 - (ii) in paragraph (f)(xi) for “training” substitute “information”;
- (b) after paragraph 2(1)(f) insert—
 - “(g) where the application is being made in respect of a section 257 HMO, the following information—
 - (i) the number of storeys comprising the HMO and the levels on which those storeys are situated;
 - (ii) the number of self-contained flats and, of those, the number—
 - (aa) that the applicant believes to be subject to a lease of over 21 years; and
 - (bb) over which the applicant cannot reasonably be able to exercise control;
 - (iii) in relation to each self-contained flat that is not owner-occupied and which is under the control of or being managed by the proposed licence holder, and in relation to the common parts of the HMO—

- (aa) details of fire precautions equipment, including the number and location of smoke alarms;
 - (bb) details of fire escape routes and other fire safety information provided to occupiers; and
 - (cc) a declaration that the furniture in the HMO or house that is provided under the terms of any tenancy or licence meets any safety requirements contained in any enactment; and
 - (iv) a declaration that any gas appliances in any parts of the HMO over which the proposed licence holder can reasonably be expected to exercise control meet any safety requirements contained in any enactment.”
- (8) In Schedule 3 (prescribed standards for deciding on the suitability for occupation of an HMO by a particular maximum number of households or persons)—
- (a) for paragraph 2(1) and (2) substitute—

“2.—(1) Where all or some of the units of living accommodation in an HMO do not contain bathing and toilet facilities for the exclusive use of each individual household, there must be an adequate number of bathrooms, toilets and wash-hand basins suitable for personal washing for the number of persons sharing those facilities, having regard to the age and character of the HMO, the size and layout of each flat and its existing provision for wash-hand basins, toilets and bathrooms.”; and
 - (b) after paragraph 4(1), insert—

“(1A) The standards referred to in paragraphs (a) and (f) of sub-paragraph (1) do not apply in relation to a unit of accommodation where—

 - (a) the landlord is not contractually bound to provide such appliances or equipment;
 - (b) the occupier of the unit of accommodation is entitled to remove such appliances or equipment from the HMO; or
 - (c) the appliances or equipment are otherwise outside the control of the landlord.”

12 November 2007

Jocelyn Davies
Under authority of the Minister for the
Environment, Sustainability and Housing, one of
the Welsh Ministers

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulations 3 to 11 of these Regulations apply to houses in multiple occupation (“HMOs”) in Wales that are converted blocks of flats to which section 257 of the Housing Act 2004 (“the Act”) applies (“section 257 HMOs”). These are buildings that have been converted into and consist of self-contained flats where the building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them, and less than two-thirds of the self-contained flats are owner-occupied.

The Regulations impose duties on a person managing such section 257 HMOs in respect of—

- providing information to occupiers (regulation 4);
- taking safety measures, including fire safety measures (regulation 5);
- maintaining the water supply and drainage (regulation 6);
- supplying and maintaining gas and electricity, including having it regularly inspected (regulation 7);
- maintaining common parts (defined in regulation 7(6)), fixtures, fittings and appliances (regulation 8);
- maintaining living accommodation (regulation 9); and
- providing waste disposal facilities (regulation 10).

The manager’s duties do not extend to the parts of the HMO over which the manager cannot reasonably be expected to exercise control (regulation 3).

Regulation 11 imposes duties on occupiers of an HMO for the purpose of ensuring that the person managing it can effectively carry out the duties imposed on them.

By section 234(3) of the Act, a person who fails to comply with regulations 3 to 11 of these Regulations commits an offence punishable on summary conviction with a fine not exceeding level 5 on the standard scale.

Regulation 12 amends the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Wales) Regulations 2006 (S.I.2006/1715 (W. 177)), so that, with some exceptions, those Regulations now apply to all HMOs to which Part 2 of the Act applies, including section 257 HMOs. Some additional provisions are relevant only to section 257 HMOs. Regulation 12 also amends those Regulations in respect of the standards relating to washing and bathing facilities that are prescribed for deciding the suitability of a house for multiple occupation by a particular maximum number of households or persons. It also makes a minor amendment to the information that needs to be provided concerning fire safety at the HMO or house in an application for a licence.

A full regulatory impact assessment on the statutory instruments to supplement the provisions of the Housing Act 2004 in relation to the licensing of HMOs and the selective licensing of other private rented accommodation and management orders (Parts 2, 3 and Chapter 1 of Part 4 of the Housing Act 2004) was produced in February 2006 and is available from the Private Sector Unit, Housing Directorate, Welsh Assembly Government, Merthyr Tydfil Office, Rhydycar, Merthyr Tydfil, CF48 1UZ, telephone 01685 729193, or email huw.mclean@wales.gsi.gov.uk.

Document Generated: 2023-05-26

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