

*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 3: Enforcement of Licensing Requirements**

##### ***Section 30: Unlicensed HMO***

This section creates a number of criminal offences relating to HMO licensing. An owner of a licensable HMO without a licence is committing an offence (unless the owner has a reasonable excuse). A person who acts as an agent for an HMO which is not licensed also commits an offence. And where the owner of an unlicensed HMO instructs an agent to act in relation to that house, the owner commits an offence.

##### ***Section 31: Exceeding licensed occupancy or breach of licence conditions***

This section creates the offence of allowing an HMO to be occupied in excess of the number of persons authorised on the licence. It also creates offences related to breaching conditions in a licence. An owner, agent or other person named in the licence commits an offence if they breach a condition included in a licence. And an owner or agent commits an offence if any other licence condition is breached and they do not take reasonable measures to prevent it.

##### ***Section 32: Untrue claim that HMO is licensed***

This section makes it an offence to claim that an HMO is licensed when it is not.

##### ***Section 33: Agents not named in licence***

This section makes it an offence for an owner to authorise a managing agent to act in relation to a house if the managing agent is not named in the licence. It also makes it an offence for a person to act as a managing agent in those circumstances.

##### ***Section 34: Reasonable excuse***

This section sets out some circumstances in which the owner of an HMO has a reasonable excuse for the purposes of [sections 30\(1\)](#) and [31\(2\)](#) and (3).

### ***Section 35: Power to require rectification of breach***

Section 35 specifies that a council can serve a notice on a licence holder requiring action to be taken to rectify or prevent a breach of a condition in an HMO licence. A notice can be served irrespective of whether the council has taken any other action or whether criminal proceedings have been commenced. The action required may include the carrying out of work in or to the HMO.

### ***Section 36: Revocation of rectification notice***

This section outlines the circumstances in, and process by which, a council may revoke a rectification notice under [section 35](#). In particular, a notice must be revoked if all the requirements set out in it have been complied with.

### ***Section 37: Failure to comply with rectification notice***

If the owner of an HMO fails to take any action specified in the rectification notice, by the date given in the notice, they will have committed an offence under [section 37](#). In determining the seriousness of that offence (for example, for the purposes of setting a fine), regard is to be had to the original breach which led to the issuing of the rectification notice.

### ***Section 38: Revocation orders and disqualification orders***

This section gives a court powers to revoke an HMO licence and disqualify an owner from holding a licence, or an agent from being named on a licence, for a period not exceeding five years. These powers can be used on conviction of an offence under various provisions of the Act.

### ***Section 39: Revocations and disqualifications: appeals***

This section specifies that a person may appeal against a revocation order or disqualification order.

### ***Section 40: Discharge of disqualification orders***

This section specifies that the court which made the disqualification order may discharge the order with effect from such date as the court may specify, if the court is satisfied that there has been a change in circumstances which justifies doing so.