

Status: Point in time view as at 01/04/2019.

Changes to legislation: There are currently no known outstanding effects for the Houses in Multiple Occupation Act (Northern Ireland) 2016, PART 2. (See end of Document for details)



2016 CHAPTER 22

PART 2

Licensing of Houses in multiple occupation

Requirement for and issue of licences

Requirement for HMOs to be licensed

7.—(1) Every house in multiple occupation (“HMO”) must be licensed under this Act (unless a temporary exemption notice under section 15 is in effect in respect of it).

(2) A licence under this Act (an “HMO licence”) is to be issued by the council for the district in which the HMO is situated.

(3) An HMO licence must specify—

- (a) the HMO to which it relates,
- (b) the council which issued it,
- (c) the number of persons who are authorised by the licence to occupy the HMO as their only or main residence,
- (d) the owner of the HMO,
- (e) any managing agent of the HMO, and
- (f) any conditions which the council has decided to include in the licence under section 14.

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Commencement Information

II S. 7 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Applications for HMO licence

8.—(1) An application for an HMO licence is to be made to the council by the owner of the living accommodation in question.

(2) The council may grant the licence only if it is satisfied that—

- (a) the occupation of the living accommodation as an HMO would not constitute a breach of planning control (see section 9);
- (b) the owner of the living accommodation, and any managing agent of it, are fit and proper persons (see section 10);
- (c) the proposed management arrangements for the living accommodation are satisfactory (see section 11);
- (d) the granting of the licence will not result in overprovision of HMOs in the locality in which the living accommodation is situated (see section 12); and
- (e) the living accommodation is fit for human habitation and—
 - (i) is suitable for occupation as an HMO (see section 13) by the number of persons to be specified in the licence as mentioned in section 7(3)(c), or
 - (ii) can be made so suitable by including conditions in the licence under section 14.

(3) Schedule 2 makes provision about the procedural requirements relating to an application for an HMO licence.

Commencement Information

II S. 8 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Breach of planning control

9.—(1) For the purposes of section 8(2)(a) (refusal of licence for breach of planning control), “breach of planning control” has the meaning given by section 131 of the Planning Act (Northern Ireland) 2011.

(2) For provisions under which a decision to refuse a licence under section 8(2)(a) is treated differently from a refusal on other grounds, see—

- (a) paragraphs 5 to 7 of Schedule 2 (procedure on refusal of application);
- (b) section 25 (restriction on making applications after refusal);
- (c) section 67(1)(d) (appeals).

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Commencement Information

I3 S. 9 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Fit and proper persons

10.—(1) This section sets out the matters which are relevant for deciding whether an owner or managing agent is a fit and proper person for the purposes of this Act.

(2) A person who is subject to a disqualification order (see section 38) is not a fit and proper person.

(3) In deciding whether any other person (“P”) is a fit and proper person, the council must have regard to—

- (a) the matters mentioned in subsections (4) to (7), and
- (b) any other matter which the council considers to be relevant.

(4) The council must have regard to whether P has—

- (a) committed any offence involving—
 - (i) fraud or other dishonesty,
 - (ii) violence,
 - (iii) drugs,
 - (iv) human trafficking, or
 - (v) a firearm (within the meaning of Article 2(2) of the Firearms (Northern Ireland) Order 2004);
- (b) committed an offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- (c) practised unlawful discrimination in, or in connection with, the carrying on of any business;
- (d) contravened any provision of the law relating to housing or of landlord and tenant law; or
- (e) acted otherwise than in accordance with a code of practice approved under section 63.

(5) The council must have regard to whether any associate or former associate of P has engaged in any of the conduct mentioned in paragraphs (a) to (e) of subsection (4), if it appears to the council that that conduct is relevant to whether P is a fit and proper person.

(6) The council must have regard to—

- (a) any anti-social behaviour engaged in by P, and
- (b) P's conduct as regards any anti-social behaviour—

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(i) engaged in by the occupants of any relevant living accommodation whilst in the accommodation, or

(ii) adversely affecting the occupants of any such accommodation.

(7) In subsection (6)—

“anti-social behaviour” means—

(i) acting or threatening to act in a manner causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises or in the locality of such premises, or

(ii) using or threatening to use residential premises for illegal purposes;

“relevant living accommodation” means living accommodation of which P is or was the owner or managing agent.

(8) If an owner or managing agent is a body (whether incorporated or not), the body is not a fit and proper person if any of the following is not a fit and proper person—

(a) a director of the body,

(b) a partner of it, or

(c) any other person concerned in the management of the body.

Commencement Information

I4 S. 10 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Satisfactory management arrangements

11 In deciding for the purposes of section 8(2)(c) whether the proposed management arrangements for the living accommodation are satisfactory, the council must have regard to (among other things)—

(a) whether any person proposed to be involved in the management has a sufficient level of competence to be so involved,

(b) whether any person proposed to be involved in the management, other than a managing agent named in the licence, is a fit and proper person (within the meaning given by section 10) to be so involved, and

(c) whether any proposed management structures and funding arrangements are suitable.

Commencement Information

I5 S. 11 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

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Overprovision

12.—(1) In considering whether the granting of a licence will result in overprovision in a locality for the purposes of section 8(2)(d), the council must have regard to—

- (a) the number and capacity of licensed HMOs in the locality,
- (b) the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need, and
- (c) such other matters as the Department may by regulations specify.

(2) It is for the council to determine the localities within its district for the purposes of this section.

Commencement Information

I6 S. 12 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Suitability of living accommodation for multiple occupation

13.—(1) In determining for the purposes of section 8(2)(e) whether living accommodation is, or can be made, suitable for occupation as an HMO by the specified maximum number of persons, the council must have regard to—

- (a) the matters set out in subsection (2),
- (b) the minimum standards set under subsection (3) for the accommodation's condition, facilities or equipment for that number of persons, and
- (c) the extent (if any) to which the accommodation falls short of the provisions of building regulations.

(2) The matters referred to in subsection (1)(a) are—

- (a) the accommodation's location,
- (b) the type and number of persons likely to occupy it,
- (c) the safety and security of persons likely to occupy it, and
- (d) the possibility of undue public nuisance.

(3) The Department may by regulations set minimum standards which must be met in relation to the matters set out in subsection (5) in order for accommodation to be regarded as suitable for occupation by prescribed numbers of persons.

(4) In having regard to those minimum standards, the council—

- (a) cannot be satisfied that the accommodation is suitable if the council considers that the accommodation fails to meet the standards, but
- (b) may decide that the accommodation is not suitable for occupation by that number even if the accommodation does meet the standards.

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- (5) The matters referred to in subsection (3) are—
- (a) natural and artificial lighting,
 - (b) ventilation,
 - (c) installations for the supply of water, gas and electricity and for sanitation, space heating and heating water,
 - (d) personal washing facilities,
 - (e) facilities for the storage, preparation and provision of food,
 - (f) any requirements about the display of signs relating to fire exits or other matters,
 - (g) interior and exterior decoration,
 - (h) safety equipment (including fire safety equipment), and
 - (i) disposal of refuse.

(6) The standards that may be set under subsection (3) include standards as to the number, type and condition of facilities or equipment which should be available in prescribed circumstances.

(7) In subsections (3) and (6), “prescribed” means prescribed in the regulations.

(8) In relation to any application for an HMO licence, the “specified maximum number of persons” means—

- (a) the number of persons specified in the application as the proposed maximum for the accommodation, or
- (b) if the council decides to specify a lower number in the licence, that lower number.

Commencement Information

I7 S. 13 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Licence conditions

Licence conditions

14.—(1) An HMO licence may include such conditions as the council considers appropriate for regulating any or all of the following—

- (a) the management, use and occupation of the HMO;
 - (b) its condition and contents.
- (2) The conditions may, in particular, include—

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- (a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the HMO by persons occupying it;
 - (b) conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the HMO;
 - (c) conditions requiring facilities and equipment to be made available in the house for the purpose of making it suitable for occupation as an HMO (within the meaning of section 13);
 - (d) conditions requiring such facilities and equipment to be maintained in repair and proper working order;
 - (e) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to be so maintained, that the works are carried out within such period or periods as may be specified in, or determined under, the licence;
 - (f) conditions requiring the owner of the HMO or the managing agent of it (if any) to attend training courses in relation to any code of practice approved under section 63.
- (3) The Department may make regulations requiring councils to include in HMO licences such conditions as are specified in the regulations.
- (4) An HMO licence may include a condition imposing a restriction or obligation on—
- (a) the owner of the HMO or the managing agent of it (if any);
 - (b) any class of persons described by reference to the HMO (such as occupants of it or visitors to it), whether or not identified by name;
 - (c) any other person named in the condition.
- (5) But an HMO licence may include a condition imposing a restriction or obligation on a person named in it (other than the owner or managing agent) only if that person has consented to the imposition of the restriction or obligation.
- (6) An HMO licence may not include conditions requiring, or intended to secure, any alteration in the terms of any tenancy or other occupancy arrangement under which any person occupies the HMO.
- (7) A condition included in an HMO licence may specify a date from which the condition is to have effect (and such a date may be later, but not earlier, than the date from which the other provisions of the licence have effect).
- (8) If an HMO licence includes a condition which requires work to be carried out in or to any living accommodation, the condition must specify the date by which that work must be completed.
- (9) Any date specified for the purposes of subsection (7) or (8) must be such as would, in the opinion of the council, enable the licence holder to secure compliance with the condition, or to complete the work, before that date.

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Commencement Information

18 S. 14 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Temporary exemption from licensing requirement

Temporary exemption notice

15.—(1) This section applies where the owner of an unlicensed HMO makes an application to the council that—

- (a) specifies steps which may be taken with a view to securing that the HMO ceases to be an HMO, and
- (b) includes a declaration that the owner intends to take those steps.

(2) An application under subsection (1) must be in such form as the council specifies by general notice.

(3) If the council is satisfied—

- (a) that the steps specified in the application will have the intended effect, and
- (b) that the owner intends to take them,

it may issue a notice (a “temporary exemption notice”) in respect of the HMO.

(4) A temporary exemption notice may include safety or security requirements (see section 17).

(5) The council must—

- (a) if it decides to issue a temporary exemption notice, serve that notice on the owner and the occupants of the HMO;
- (b) otherwise, serve on the owner and the occupants notice of its decision not to do so.

(6) An HMO is not required to be licensed under this Act during the period for which a temporary exemption notice has effect in respect of it.

(7) A temporary exemption notice has effect for—

- (a) the period of 3 months beginning with the date on which it is served, or
- (b) such longer period as may be granted under section 16.

Commencement Information

19 S. 15 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

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Extension of temporary exemption notice

16.—(1) This section applies if the council is satisfied, on the application of the owner, that there are special circumstances that justify the extension of the period for which a temporary exemption notice has effect.

(2) The council may grant an extension for such period, not exceeding 3 months, as it considers appropriate.

(3) Only one such extension may be granted.

(4) The council must serve notice of its decision under this section on the owner and the occupants of the HMO.

Commencement Information

I10 S. 16 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Safety and security requirements

17.—(1) A temporary exemption notice may include requirements that the owner of the HMO carry out such work in or to the HMO as the council considers appropriate for the purpose of improving the safety or security of the HMO's occupants during the period for which the notice has effect.

(2) If a notice does so, it must specify—

- (a) the work to be carried out, and
- (b) a date by which the work must be completed.

(3) Different dates may be specified for different works.

(4) A date specified under subsection (2) must not be earlier than the date by which the council reasonably considers that the work can be completed.

(5) A notice which requires work to be carried out may also specify particular steps which the council requires to be taken in carrying out that work.

(6) Part 1 of Schedule 3 applies to a temporary exemption notice that includes a requirement under this section.

Commencement Information

I11 S. 17 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Revocation of temporary exemption notice

18.—(1) If the council is satisfied that the owner of the HMO has failed to comply with any requirement included in a temporary exemption notice under section 17, the council may revoke the notice.

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(2) A council that revokes a notice must serve on the owner and the occupants notice of its decision to do so.

(3) A revocation under this section has effect from—

- (a) the last date on which the decision to revoke the notice may be appealed in accordance with section 67(4), or
- (b) if such an appeal is made, the date on which the appeal is finally determined.

Commencement Information

I12 S. 18 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Duration and renewal

Duration of HMO licence

19.—(1) An HMO licence has effect from—

- (a) the date on which notice of the decision to grant it is served under paragraph 13 of Schedule 2, or
- (b) such later date as may be specified in the licence.

(2) An HMO licence has effect for—

- (a) 5 years, or
- (b) such shorter period, of not less than 6 months, as may be specified in the licence.

(3) Subsections (1) and (2) do not apply to a licence which is treated as having been granted in accordance with paragraph 12(6) of Schedule 2.

(4) Such a licence—

- (a) has effect from the date by which the council was required by that paragraph to determine the application, and
- (b) has effect for 1 year.

(5) Subsections (2) and (4)(b) are subject to the following provisions, which provide for the date on which a licence is to cease to have effect in certain circumstances—

- (a) section 21 (effect on existing licence where application is made to renew);
- (b) section 23 (revocation of licence);
- (c) section 27 (surrender of licence);
- (d) section 28 (change of ownership of property);
- (e) section 29 (death of licence holder).

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Commencement Information

I13 S. 19 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Renewal of licence

20.—(1) Where the holder of an HMO licence makes an application in accordance with this section for it to be renewed, the council may renew the licence.

(2) An application to renew a licence must be made before the licence ceases to have effect.

(3) The provisions of this Part apply to applications to renew a licence (and decisions on such applications) as they apply to applications for a licence (and decisions on such applications).

(4) But the following provisions do not apply to applications to renew—

- (a) sections 8(2)(a) and 9 and paragraphs 5 to 7 of Schedule 2 (breach of planning control);
- (b) sections 8(2)(d) and 12 (overprovision).

Commencement Information

I14 S. 20 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Application to renew: effect on existing licence

21.—(1) Where an application to renew a licence is made in accordance with section 20, the existing licence has effect until the date mentioned in subsection (2).

(2) That date is—

- (a) if the application is granted, the date from which the renewed licence has effect (determined in accordance with section 19(1) or (4)(a));
- (b) if the application is refused, the latest of the following dates—
 - (i) the last date on which the decision to refuse the application may be appealed in accordance with section 67(4);
 - (ii) if such an appeal is made, the date on which the appeal is finally determined;
 - (iii) the date on which the existing licence would cease to have effect if the application to renew it had not been made.

(3) This section is subject to the following provisions, which provide for the date on which a licence is to cease to have effect in certain circumstances—

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- (a) section 23 (revocation of licence);
- (b) section 27 (surrender of licence);
- (c) section 28 (change of ownership of property);
- (d) section 29 (death of licence holder).

Commencement Information

I15 S. 21 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Variation and revocation

Variation of licences

22.—(1) The council may vary an HMO licence in any of the following ways—

- (a) varying the number of persons who are authorised by the licence to occupy the HMO;
 - (b) removing, adding or substituting the managing agent of the HMO;
 - (c) removing, adding or varying any conditions included in the licence.
- (2) The council may vary a licence under this section—
- (a) on the application of the licence holder,
 - (b) on the application of any person named in the licence as a person on whom a restriction or obligation is imposed under section 14, or
 - (c) on the council's own initiative.

Commencement Information

I16 S. 22 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Revocation of licences

23.—(1) The council may revoke an HMO licence if it is satisfied that—

- (a) the owner of the HMO, or any managing agent of it (whether or not named in the licence), is not a fit and proper person (see section 10);
- (b) the management arrangements for the HMO are not satisfactory (see section 11);
- (c) the HMO is not fit for human habitation;
- (d) the HMO is not suitable for occupation (within the meaning of section 13) by any number of persons and cannot be made suitable by varying the licence to include conditions under section 14;

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- (e) any of the following persons has committed a serious breach of a condition of the licence—
- (i) the owner or managing agent of the HMO;
 - (ii) any person named in the licence as a person on whom a restriction or obligation is imposed under section 14; or
- (f) there has been more than one breach of the conditions of the licence.

(2) For the purposes of subsection (1), it does not matter whether the council has taken any other action, or whether criminal proceedings have been commenced, in respect of the circumstances in question.

Commencement Information

I17 S. 23 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Variation and revocation: procedure

24 Schedule 4 makes provision about the procedure for varying or revoking an HMO licence.

Commencement Information

I18 S. 24 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Other provision about licences

Restriction on applications

25.—(1) This section applies where a council refuses to grant an HMO licence, except where the refusal is solely because the council is not satisfied as mentioned in section 8(2)(a) (planning control).

(2) Where the refusal is on the ground that any person is not a fit and proper person (see sections 8(2)(b) and 11(b)), that person is to be regarded as not being a fit and proper person for the purposes of any application for an HMO licence made in the restricted period.

(3) Where the refusal is on one or both of the grounds mentioned in section 8(2)(d) and (e) (overprovision, and accommodation not habitable or not suitable for HMO), the council may not consider any application for an HMO licence in relation to the living accommodation in question made in the restricted period.

(4) The “restricted period” is the period of 1 year beginning with the date on which notice of refusal is served under paragraph 13 of Schedule 2.

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(5) This section does not prevent the council from considering an application made in the restricted period if the council is satisfied that there has been a material change of circumstances.

Commencement Information

119 S. 25 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Joint licence holders

26.—(1) This section applies where living accommodation is owned jointly by two or more persons.

(2) An application for an HMO licence may be made by, and an HMO licence may be granted to—

- (a) any one of those owners, or
- (b) any two or more of those owners jointly.

(3) In a case falling within subsection (2), any reference in this Act to the “owner” of the accommodation is a reference to the owner or owners in question; and in particular, in a case falling within subsection (2)(b)—

- (a) any requirement to be fulfilled by the owner must be fulfilled by all of them, and
- (b) anything required to be done in relation to the owner must be done in relation to all of them.

(4) Where—

- (a) there is a transfer of ownership of a licensed HMO,
- (b) as a result of the transfer one or more joint licensees (but not all of them) cease to be an owner of the HMO,

the licence is to be treated as being held, from the date of the transfer, by the remaining owner or owners.

(5) Where—

- (a) there is a transfer of ownership of a licensed HMO,
- (b) as a result of the transfer there is a new owner (or more than one), and
- (c) at least one person who was a licensee before the transfer continues to be an owner after it,

the new owner (or any of them) may apply to the council to be added as a joint licensee.

(6) The council must—

- (a) treat an application under subsection (5) as an application to renew the licence made jointly by the existing licensee and the new owner, and

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(b) if it decides to grant the application, vary the licence accordingly.

(7) Where one or more joint licensees (but not all of them) apply to the council to be removed as such, the council must vary the licence accordingly.

(8) Where a licence is varied under subsection (6) or (7), the council must serve a copy of the licence as varied on each joint licensee and on each person who was a joint licensee before the variation.

(9) In this section—

“transfer of ownership” includes the creation of a new estate;

“new owner” means a person who is an owner after the transfer but was not an owner before it.

Commencement Information

I20 S. 26 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Surrender of HMO licence

27.—(1) The holder of an HMO licence may surrender the licence by giving notice to the council to that effect.

(2) Notice under subsection (1) is to be in such form as the council may specify by general notice.

Commencement Information

I21 S. 27 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Change of ownership: effect on licence

28.—(1) A licence may be transferred to another person only in accordance with this section.

(2) Accordingly, except as set out in subsection (3), where—

- (a) there is a transfer of ownership of a licensed HMO,
- (b) as a result of the transfer there is a new owner (or more than one), and
- (c) no person who was a licensee before the transfer continues to be an owner after it,

the licence ceases to have effect on the date of the transfer.

(3) If—

- (a) there is a transfer of ownership of a licensed HMO, and
- (b) before the date of the transfer, the proposed new owner (or any of them) applies for a licence in respect of the HMO (a “new licence”),

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the licence which is already in effect in respect of the HMO (“the existing licence”) is to be treated as being held, from the date of the transfer, by the person or persons who made the application for the new licence (“the transferee”).

(4) But the existing licence ceases to have effect on the date mentioned in subsection (5).

(5) That date is—

- (a) if the transferee's application is granted, the date from which the new licence has effect (determined in accordance with section 19(1) or (4)(a));
- (b) if the transferee's application is refused—
 - (i) one month after the last date on which the decision to refuse the transferee's application may be appealed in accordance with section 67(4), or
 - (ii) if such an appeal is made, one month after the date on which the appeal is finally determined.

(6) Subsection (4) and (5) are subject—

- (a) to sections 23 (revocation) and 27 (surrender), which provide for a licence in certain circumstances to cease to have effect earlier than as provided by this section, and
- (b) if the transferee dies, to section 29, which provides for a licence in certain circumstances to cease to have effect earlier than, or later than, as provided by this section.

(7) In this section—

“transfer of ownership” includes the creation of a new estate;

“new owner” means a person who is an owner after the transfer but was not an owner before it.

Commencement Information

I22 S. 28 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Death of sole licence holder: effect on licence

29.—(1) Where a sole licensee dies, the HMO licence—

- (a) is to be treated as being held, from the date of death, by the licensee's personal representatives, but
- (b) ceases to have effect 3 months after that date.

(2) The council may, on the application of the personal representatives of the licensee, extend the period for which the licence has effect beyond the date mentioned in subsection (1)(b) if the council considers that it is reasonable to do so for the purpose of winding up the licensee's estate.

Status: Point in time view as at 01/04/2019.

Changes to legislation: There are currently no known outstanding effects for the Houses in Multiple Occupation Act (Northern Ireland) 2016, PART 2. (See end of Document for details)

(3) An application under subsection (2) must be made within the period mentioned in subsection (1)(b).

(4) The council must serve on the personal representatives notice of its decision under subsection (2).

(5) Subsections (1)(b) and (2) are subject—

- (a) to sections 23 (revocation) and 27 (surrender), which provide for a licence in certain circumstances to cease to have effect earlier than as provided by this section, and
- (b) if the personal representatives of the licensee transfer ownership of the HMO, to section 28, which provides for a licence in certain circumstances to cease to have effect earlier than, or later than, as provided by this section.

Commencement Information

I23 S. 29 in operation at 1.4.2019 by S.R. 2019/39, art. 2 (with art. 3)

Status:

Point in time view as at 01/04/2019.

Changes to legislation:

There are currently no known outstanding effects for the Houses in Multiple Occupation Act (Northern Ireland) 2016, PART 2.