



## 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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**Changes to legislation:** There are currently no known outstanding effects for the Houses in Multiple Occupation Act (Northern Ireland) 2016, Cross Heading: Requirement for and issue of licences. (See end of Document for details)

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**Commencement Information**

**I1** 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.

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**Commencement Information**

**I2** 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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**Changes to legislation:** There are currently no known outstanding effects for the Houses in Multiple Occupation Act (Northern Ireland) 2016, Cross Heading: Requirement for and issue of licences. (See end of Document for details)

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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.

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**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.

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**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.

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**Commencement Information**

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

**Changes to legislation:**

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