



2016 CHAPTER 22

PART 4

Standards of housing

CHAPTER 1

Overcrowding

*Definition*

**Definition of overcrowding**

**41.** An HMO is overcrowded for the purposes of this Chapter when the number of persons who sleep in it is such as to contravene—

- (a) the room standard (set out in section 42), or
- (b) the space standard (set out in section 43).

**The room standard**

**42.—(1)** The room standard is contravened when the number of persons who sleep in the HMO and the number of rooms available as sleeping accommodation are such that any person aged 13 or over must sleep in the same room as—

- (a) any person of the opposite sex who is also aged 13 or over, or
- (b) a couple (within the meaning given by section 88(3)(a)).

(2) For this purpose, a room is available as sleeping accommodation if it is of a type normally used in the locality either as a bedroom or as a living room.

**The space standard**

**43.**—(1) The space standard is contravened when the number of persons who sleep in the HMO exceeds the permitted number for that HMO.

(2) In determining for the purpose of subsection (1) the number of persons who sleep in an HMO—

- (a) no account is to be taken of a child under the age of one, and
  - (b) a child aged 11 or less (but aged at least one) is to be counted as one-half of a person.
- (3) To calculate the permitted number for an HMO—
- (a) for each room in the HMO which is available as sleeping accommodation, determine, by reference to what type of room it is, which of Tables 1, 2 and 3 applies to that room,
  - (b) determine, by reference to the floor area of the room, the permitted number of persons for that room, and
  - (c) add together the permitted numbers for each of the rooms in the HMO.

The total is the permitted number for the HMO.

**Table 1 - Rooms which are a bedroom (only)**

<i>Floor area of room</i>	<i>Permitted number for the room</i>
Less than 6.5m <sup>2</sup>	No account is to be taken of the room
6.5m <sup>2</sup> or more but less than 11m <sup>2</sup>	1
11m <sup>2</sup> or more but less than 15m <sup>2</sup>	2
15m <sup>2</sup> or more but less than 19.5m <sup>2</sup>	3
19.5m <sup>2</sup> or more	4 plus one additional person for each 4.5m <sup>2</sup> in excess of 19.5m <sup>2</sup>

**Table 2 - Rooms which are a bedroom and living room**

<i>Floor area of room</i>	<i>Permitted number for the room</i>
Less than 10m <sup>2</sup>	No account is to be taken of the room
10m <sup>2</sup> or more but less than 15m <sup>2</sup>	1
15m <sup>2</sup> or more but less than 19.5m <sup>2</sup>	2
19.5m <sup>2</sup> or more	3 plus one additional person for each 4.5m <sup>2</sup> in excess of 19.5m <sup>2</sup>

**Table 3 - Rooms which are a bedroom, living room and kitchen**

<i>Floor area of room</i>	<i>Permitted number for the room</i>
Less than 13m <sup>2</sup>	No account is to be taken of the room

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*Status: This is the original version (as it was originally enacted).*

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<i>Floor area of room</i>	<i>Permitted number for the room</i>
13m <sup>2</sup> or more but less than 20.5m <sup>2</sup>	1
20.5m <sup>2</sup> or more	2 plus one additional person for each 4.5m <sup>2</sup> in excess of 20.5m <sup>2</sup>

(4) For the purpose of subsection (3), a room is available as sleeping accommodation if it is of a type normally used in the locality as a bedroom, as a bedroom and living room or as a bedroom, living room and kitchen (as the case may be).

(5) The Department may make regulations which specify the manner in which the floor area of a room is to be determined for the purposes of this section.

(6) The regulations may, in particular, provide for the exclusion from computation, or the bringing into computation at a reduced figure, of floor space in a part of the room which is of less than a height specified in the regulations.

(7) A certificate of the council stating the number and floor areas of the rooms in an HMO, and that the floor areas have been determined in the manner specified in regulations, is evidence for the purposes of legal proceedings of the matters stated in it.