



# Housing Act 2004

## 2004 CHAPTER 34

### PART 2

#### LICENSING OF HOUSES IN MULTIPLE OCCUPATION

##### *Grant or refusal of licences*

### 63 Applications for licences

- (1) An application for a licence must be made to the local housing authority.
- (2) The application must be made in accordance with such requirements as the authority may specify.
- (3) The authority may, in particular, require the application to be accompanied by a fee fixed by the authority.
- (4) The power of the authority to specify requirements under this section is subject to any regulations made under subsection (5).
- (5) The appropriate national authority may by regulations make provision about the making of applications under this section.
- (6) Such regulations may, in particular—
  - (a) specify the manner and form in which applications are to be made;
  - (b) require the applicant to give copies of the application, or information about it, to particular persons;
  - (c) specify the information which is to be supplied in connection with applications;
  - (d) specify the maximum fees which are to be charged (whether by specifying amounts or methods for calculating amounts);
  - (e) specify cases in which no fees are to be charged or fees are to be refunded.
- (7) When fixing fees under this section, the local housing authority may (subject to any regulations made under subsection (5)) take into account—

*Status: Point in time view as at 06/04/2006.*

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- (a) all costs incurred by the authority in carrying out their functions under this Part, and
- (b) all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to HMOs (so far as they are not recoverable under or by virtue of any provision of that Chapter).

#### Commencement Information

- II** S. 63 wholly in force at 16.6.2006; s. 63 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 63 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 63 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 64 Grant or refusal of licence

- (1) Where an application in respect of an HMO is made to the local housing authority under section 63, the authority must either—
  - (a) grant a licence in accordance with subsection (2), or
  - (b) refuse to grant a licence.
- (2) If the authority are satisfied as to the matters mentioned in subsection (3), they may grant a licence either—
  - (a) to the applicant, or
  - (b) to some other person, if both he and the applicant agree.
- (3) The matters are—
  - (a) that the house is reasonably suitable for occupation by not more than the maximum number of households or persons mentioned in subsection (4) or that it can be made so suitable by the imposition of conditions under section 67;
  - (b) that the proposed licence holder—
    - (i) is a fit and proper person to be the licence holder, and
    - (ii) is, out of all the persons reasonably available to be the licence holder in respect of the house, the most appropriate person to be the licence holder;
  - (c) that the proposed manager of the house is either—
    - (i) the person having control of the house, or
    - (ii) a person who is an agent or employee of the person having control of the house;
  - (d) that the proposed manager of the house is a fit and proper person to be the manager of the house; and
  - (e) that the proposed management arrangements for the house are otherwise satisfactory.
- (4) The maximum number of households or persons referred to in subsection (3)(a) is—
  - (a) the maximum number specified in the application, or
  - (b) some other maximum number decided by the authority.
- (5) Sections 65 and 66 apply for the purposes of this section.

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#### Commencement Information

- I2** S. 64 wholly in force at 16.6.2006; s. 64 not in force at Royal Assent see s. 270(4)(5); s. 64 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 64 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

### 65 Tests as to suitability for multiple occupation

- (1) The local housing authority cannot be satisfied for the purposes of section 64(3)(a) that the house is reasonably suitable for occupation by a particular maximum number of households or persons if they consider that it fails to meet prescribed standards for occupation by that number of households or persons.
- (2) But the authority may decide that the house is not reasonably suitable for occupation by a particular maximum number of households or persons even if it does meet prescribed standards for occupation by that number of households or persons.
- (3) In this section “prescribed standards” means standards prescribed by regulations made by the appropriate national authority.
- (4) The standards that may be so prescribed include—
  - (a) standards as to the number, type and quality of—
    - (i) bathrooms, toilets, washbasins and showers,
    - (ii) areas for food storage, preparation and cooking, and
    - (iii) laundry facilities,which should be available in particular circumstances; and
  - (b) standards as to the number, type and quality of other facilities or equipment which should be available in particular circumstances.

#### Commencement Information

- I3** S. 65 wholly in force at 16.6.2006; s. 65 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 65 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 65 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

### 66 Tests for fitness etc. and satisfactory management arrangements

- (1) In deciding for the purposes of section 64(3)(b) or (d) whether a person (“P”) is a fit and proper person to be the licence holder or (as the case may be) the manager of the house, the local housing authority must have regard (among other things) to any evidence within subsection (2) or (3).
- (2) Evidence is within this subsection if it shows that P has—
  - (a) committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements);
  - (b) practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business;

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- (c) contravened any provision of the law relating to housing or of landlord and tenant law; or
  - (d) acted otherwise than in accordance with any applicable code of practice approved under section 233.
- (3) Evidence is within this subsection if—
- (a) it shows that any person associated or formerly associated with P (whether on a personal, work or other basis) has done any of the things set out in subsection (2)(a) to (d), and
  - (b) it appears to the authority that the evidence is relevant to the question whether P is a fit and proper person to be the licence holder or (as the case may be) the manager of the house.
- (4) For the purposes of section 64(3)(b) the local housing authority must assume, unless the contrary is shown, that the person having control of the house is a more appropriate person to be the licence holder than a person not having control of it.
- (5) In deciding for the purposes of section 64(3)(e) whether the proposed management arrangements for the house are otherwise satisfactory, the local housing authority must have regard (among other things) to the considerations mentioned in subsection (6).
- (6) The considerations are—
- (a) whether any person proposed to be involved in the management of the house has a sufficient level of competence to be so involved;
  - (b) whether any person proposed to be involved in the management of the house (other than the manager) is a fit and proper person to be so involved; and
  - (c) whether any proposed management structures and funding arrangements are suitable.
- (7) Any reference in section 64(3)(c)(i) or (ii) or subsection (4) above to a person having control of the house, or to being a person of any other description, includes a reference to a person who is proposing to have control of the house, or (as the case may be) to be a person of that description, at the time when the licence would come into force.

#### **Commencement Information**

**I4** S. 66 wholly in force at 16.6.2006; s. 66 not in force at Royal Assent see s. 270(4)(5); s. 66 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 66 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## **67 Licence conditions**

- (1) A licence may include such conditions as the local housing authority consider appropriate for regulating all or any of the following—
- (a) the management, use and occupation of the house concerned, and
  - (b) its condition and contents.
- (2) Those conditions may, in particular, include (so far as appropriate in the circumstances)—
- (a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it;

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- (b) conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house;
  - (c) conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed under section 65;
  - (d) conditions requiring such facilities and equipment to be kept 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 meet any such standards, 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 licence holder or the manager of the house to attend training courses in relation to any applicable code of practice approved under section 233.
- (3) A licence must include the conditions required by Schedule 4.
- (4) As regards the relationship between the authority’s power to impose conditions under this section and functions exercisable by them under or for the purposes of Part 1 (“Part 1 functions”)—
- (a) the authority must proceed on the basis that, in general, they should seek to identify, remove or reduce category 1 or category 2 hazards in the house by the exercise of Part 1 functions and not by means of licence conditions;
  - (b) this does not, however, prevent the authority from imposing licence conditions relating to the installation or maintenance of facilities or equipment within subsection (2)(c) above, even if the same result could be achieved by the exercise of Part 1 functions;
  - (c) the fact that licence conditions are imposed for a particular purpose that could be achieved by the exercise of Part 1 functions does not affect the way in which Part 1 functions can be subsequently exercised by the authority.
- (5) A licence may not include conditions imposing restrictions or obligations on a particular person other than the licence holder unless that person has consented to the imposition of the restrictions or obligations.
- (6) A licence may not include conditions requiring (or intended to secure) any alteration in the terms of any tenancy or licence under which any person occupies the house.

#### Commencement Information

**I5** S. 67 wholly in force at 16.6.2006; s. 67 not in force at Royal Assent see s. 270(4)(5); s. 67 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 67 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 68 Licences: general requirements and duration

- (1) A licence may not relate to more than one HMO.
- (2) A licence may be granted before the time when it is required by virtue of this Part but, if so, the licence cannot come into force until that time.
- (3) A licence—

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- (a) comes into force at the time that is specified in or determined under the licence for this purpose, and
  - (b) unless previously terminated by subsection (7) or revoked under section 70, continues in force for the period that is so specified or determined.
- (4) That period must not end more than 5 years after—
- (a) the date on which the licence was granted, or
  - (b) if the licence was granted as mentioned in subsection (2), the date when the licence comes into force.
- (5) Subsection (3)(b) applies even if, at any time during that period, the HMO concerned subsequently ceases to be one to which this Part applies.
- (6) A licence may not be transferred to another person.
- (7) If the holder of the licence dies while the licence is in force, the licence ceases to be in force on his death.
- (8) However, during the period of 3 months beginning with the date of the licence holder's death, the house is to be treated for the purposes of this Part and Part 3 as if on that date a temporary exemption notice had been served in respect of the house under section 62.
- (9) If, at any time during that period (“the initial period”), the personal representatives of the licence holder request the local housing authority to do so, the authority may serve on them a notice which, during the period of 3 months after the date on which the initial period ends, has the same effect as a temporary exemption notice under section 62.
- (10) Subsections (6) to (8) of section 62 apply (with any necessary modifications) in relation to a decision by the authority not to serve such a notice as they apply in relation to a decision not to serve a temporary exemption notice.

#### **Commencement Information**

- I6** S. 68 wholly in force at 16.6.2006; s. 68 not in force at Royal Assent see s. 270(4)(5); s. 68 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 68 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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