



Housing (Scotland) Act 2006

2006 asp 1

PART 5

LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Meaning of “house in multiple occupation”

125 Meaning of “house in multiple occupation”

- (1) Any living accommodation falling within subsection (2) is an HMO if it is occupied by 3 or more persons who are not all members of the same family or of one or other of two families.
- (2) Living accommodation falls within this subsection if—
 - (a) it is a house, or
 - (b) it is, or forms part of, any premises or group of premises owned by the same person and its occupants share one or more of the basic amenities with each other.
- (3) The “basic amenities” are—
 - (a) a toilet,
 - (b) personal washing facilities, and
 - (c) facilities for the preparation or provision of cooked food.
- (4) For the purposes of this section—
 - (a) a person is to be treated as occupying living accommodation only if it is that person’s only or main residence,
 - (b) living accommodation occupied during term time by a person undertaking a full-time course of further or higher education is, at all times during that person’s residence, to be treated as being that person’s only or main residence,
 - (c) a patient in a health service hospital (within the meaning of section 108(1) of the National Health Service (Scotland) Act 1978 (c. 29)) is not to be treated as occupying the hospital,
 - (d) a person is not to be treated as sharing a basic amenity if the living accommodation concerned has more than one of any such amenity and the person has exclusive use of at least one of them.

126 HMOs exempt from licensing requirement

- (1) An HMO is exempt from the requirement to be licensed under this Part if it is—
- (a) occupied only by the owners of the HMO either alone or together with—
 - (i) any persons in the same family as any of those owners, and
 - (ii) any number of other persons who are unrelated to any of those owners but who are members of the same family or of one or other of two families,
 - (b) provided as part of—
 - (i) a care home service,
 - (ii) an independent health care service,
 - (iii) a school care accommodation service, or
 - (iv) a secure accommodation service,
 registered under Part 1 of the Regulation of Care (Scotland) Act 2001 (asp 8),
 - (c) owned by the Crown and occupied only by members of the armed forces of the Crown (either alone or together with any persons in the same family as any of those members),
 - (d) a prison, a young offenders institution or a remand centre,
 - (e) occupied only by—
 - (i) persons who are members of, and fully maintained by, a religious order the main occupation of which is prayer, contemplation, education or the relief of suffering, or
 - (ii) a group consisting of such persons and no more than two other persons,
 - (f) subject to a management control order made under section 74 (order transferring landlord's rights and obligations to local authority) of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), or
 - (g) owned by a co-operative housing association (within the meaning of section 300(1)(b) of the 1987 Act) the management of which is undertaken by general meeting.
- (2) The Scottish Ministers may by order amend subsection (1) by—
- (a) adding or removing the description of any type of HMO to or from those descriptions for the time being listed in that subsection, or
 - (b) varying any such description which is for the time being so listed.

127 Power to designate HMOs capable of being exempted by local authorities

- (1) The Scottish Ministers may by order describe types of HMOs which may be exempted by a local authority from the requirement to be licensed under this Part.
- (2) A local authority may by order exempt from the requirement to be licensed under this Part any HMO of a type described in an order made under subsection (1) which is situated in—
- (a) the authority's area, or
 - (b) any part of that area as may be specified in the order,
- and the local authority may vary or revoke such an order at any time.
- (3) The local authority must give notice of any order it makes, or of any variation or revocation, under subsection (2)—

- (a) in a newspaper circulating in the authority's area, and
 - (b) to every person entered in the register maintained by the authority under section 82(1) of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) (the "register of landlords").
- (4) The local authority must serve a copy of any notice given under subsection (3)(b) on any other person who—
- (a) acts for the person to whom the notice is given, and
 - (b) is specified in the authority's register of landlords as being a person who so acts,
- but failure to comply with this subsection does not invalidate the related notice given under subsection (3)(b).
- (5) Where—
- (a) an order made by the Scottish Ministers under subsection (1) is revoked, or
 - (b) any description of a type of HMO set out in such an order is amended,
- an order made by a local authority under subsection (2) ceases to have effect in so far as it relates to any type of HMO which may no longer be exempted by an order under subsection (2).

128 Relationships

- (1) Persons are to be treated as being in the same family as, and as being related to, each other for the purposes of this Part only if—
- (a) they are a couple,
 - (b) one of them is a relative of the other, or
 - (c) one of them is a relative of one member of a couple and the other is a relative of the other member of that couple.
- (2) For the purposes of subsection (1)—
- (a) a "couple" means two persons who—
 - (i) are married or are civil partners, or
 - (ii) live together as husband and wife or, where they are of the same sex, in an equivalent relationship,
 - (b) "relative" means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece,
 - (c) a relationship by the half-blood is to be treated as a relationship of the whole blood,
 - (d) the stepchild of a person is to be treated as that person's child, and
 - (e) a person brought up or treated by another person as if the person were that other person's child (including any person placed with that other person, or with that other person's family, under section 26(1)(a) of the Children (Scotland) Act 1995 (c. 36)) is to be treated as that other person's child.