



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 5

#### LICENSING OF HOUSES IN MULTIPLE OCCUPATION

##### *Local authority decisions: notice and appeals*

#### **158 Notice of decisions**

- (1) This section applies to any decision by the local authority—
- (a) to grant an HMO licence (with or without conditions) or to refuse to do so,
  - (b) to vary an HMO licence or not to make a proposed variation,
  - (c) to revoke an HMO licence or not to make a proposed revocation,
  - (d) to grant a temporary exemption order (with or without a requirement such as mentioned in section 143) or to refuse to do so,
  - (e) to extend the period for which a temporary exemption order has effect or to refuse to do so,
  - (f) to revoke a temporary exemption order,
  - (g) to make an order under section 144(1) or to refuse, on the application of any person with an interest, to revoke the order,
  - (h) to make a requirement under section 145(2),
  - (i) to revoke a requirement under section 145(2),
  - (j) to serve an HMO amenity notice,
  - (k) to revoke an HMO amenity notice,
  - (l) to extend the period within which the work required by an HMO amenity notice must be completed,
  - (m) to demand recovery of expenses under paragraph 6 of schedule 5, or
  - (n) to refuse to grant a certificate under paragraph 7 of schedule 5.
- (2) The local authority must serve notice of a decision falling within paragraphs (a) to (c) of subsection (1) on—
- (a) the applicant or, as the case may be, the licence holder,
  - (b) the [<sup>F</sup>enforcing] authority, and
  - (c) the chief constable.

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*Changes to legislation: There are currently no known outstanding effects for the  
Housing (Scotland) Act 2006, Section 158. (See end of Document for details)*

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- (3) The local authority must also either—
  - (a) serve notice of a decision falling within paragraph (a) of that subsection on each person who made a valid written representation, or a late written representation considered by the authority, in relation to the application, or
  - (b) give notice of that decision in a newspaper circulating in its area.
- (4) The local authority must also serve notice of a decision falling with paragraph (c) of that subsection to any person from whom it heard evidence in pursuance of section 139(2)(b) (notice inviting respondent to be heard).
- (5) The local authority must serve notice of a decision falling within paragraphs (d) to (f) of that subsection on the owner and the occupiers of the living accommodation concerned.
- (6) The local authority must serve notice of a decision falling within paragraph (g) of that subsection on—
  - (a) the owner of the living accommodation concerned,
  - (b) the occupiers of the living accommodation concerned, and
  - (c) in the case of a refusal on the application of any other person, that person.
- (7) The local authority must serve notice of a decision falling within paragraph (h) or (i) of that subsection on—
  - (a) the licence holder,
  - (b) the occupiers of the living accommodation concerned,
  - (c) the [<sup>F2</sup>enforcing] authority, and
  - (d) the chief constable.
- (8) The local authority must serve notice of a decision falling within paragraph (j), (k) or (l) of that subsection on—
  - (a) the owner and occupiers of the living accommodation concerned,
  - (b) the chief constable,
  - (c) the [<sup>F3</sup>enforcing authority] ,
  - (d) any creditor holding a standard security over the living accommodation,
  - (e) any person who, directly or indirectly, receives rent in respect of the living accommodation, and
  - (f) any other person appearing to the local authority to have an interest in the living accommodation.
- (9) Failure to comply with any of paragraphs (d) to (f) of subsection (8) does not invalidate a notice if the local authority, after exercising its powers under section 186(1), is not aware of the existence of the person on whom the notice should have been served.
- (10) The local authority must serve notice of a decision falling within paragraph (m) or (n) of subsection (1) on the owner of the living accommodation concerned.
- (11) A notice of a decision to which this section applies must be served within 7 days of the decision.
- (12) The notice must—
  - (a) [<sup>F4</sup>subject to subsection (17), advise of the right to request] the local authority's reasons for the decision,

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- (b) advise of the right to appeal against the decision and of the period within which such an appeal must be made,
  - (c) if an HMO licence is granted, narrate the effect of section 134 (which sets the date from which the HMO licence has effect and the date on which it expires),
  - (d) if an HMO licence is varied or revoked, narrate the effect of section 138 or, as the case may be, 139 (which sets the date from which the variation or, as the case may be, revocation has effect),
  - (e) if a temporary exemption order is granted, be accompanied by a copy of the order,
  - (f) if an order under section 144(1) is made, be accompanied by a copy of the order.
- [<sup>F5</sup>(13) A person on whom a notice of a decision to which this section applies has been served may request the local authority to give its reasons for the decision.
- (14) A request under subsection (13) must be made within 14 days of the person receiving notice of the decision.
- (15) Where a local authority receives such a request it must notify the person of its reasons for the decision within 14 days of receiving the request.
- (16) A local authority must, at the same time as notifying the person under subsection (15), so notify any other person on whom a notice of the decision has been served.
- (17) The requirement for the notice to advise of the right to request the local authority's reasons does not apply where the reasons are included in the notice (or accompany it in writing).]

#### Textual Amendments

- F1** Words in s. 158(2)(b) substituted (1.10.2006) by [The Fire \(Scotland\) Act 2005 \(Consequential Modifications and Savings\) Order 2006 \(S.S.I. 2006/475\)](#), art. 2(1), **Sch. 1 para. 17(2)(3)(c)**
- F2** Words in s. 158(7)(c) substituted (1.10.2006) by [The Fire \(Scotland\) Act 2005 \(Consequential Modifications and Savings\) Order 2006 \(S.S.I. 2006/475\)](#), art. 2(1), **Sch. 1 para. 17(2)(3)(c)**
- F3** Words in s. 158(8)(c) substituted (1.10.2006) by [The Fire \(Scotland\) Act 2005 \(Consequential Modifications and Savings\) Order 2006 \(S.S.I. 2006/475\)](#), art. 2(1), **Sch. 1 para. 17(4)**
- F4** Words in s. 158(12)(a) substituted (31.8.2011) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 15(1)(a)**, 41(3); S.S.I. 2011/270, art. 2, Sch.
- F5** S. 158(13)-(17) inserted (31.8.2011) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 15(1)(b)**, 41(3); S.S.I. 2011/270, art. 2, Sch.

#### Commencement Information

- I1** S. 158 in force at 31.8.2011 by [S.S.I. 2010/159](#), **art. 3**

**Changes to legislation:**

There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Section 158.