
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 159

**The Housing (Scotland) Act 2006 (Commencement
No. 8, Transitional Provisions and Savings) Order 2010**

Savings provisions

6.—(1) Notwithstanding the commencement of paragraphs 23 (amendment of the Fire (Scotland) Act 2005) and 24 (revocation of existing Orders) of schedule 6 to the 2006 Act, section 78(5)(a) of the Fire (Scotland) Act 2005⁽¹⁾ and the provisions of the 2000 Order shall continue to have effect in relation to that application or licence as if the commencement of paragraphs 23 and 24 of schedule 6 to the 2006 Act had not taken place where on the transition date—

- (a) an application for a 2000 Order licence is pending;
 - (b) an application for a 2000 Order licence has been refused;
 - (c) a decision has been taken to suspend a 2000 Order licence in terms of paragraphs 11 or 12 of schedule 1 to the 1982 Act and the period of that suspension has not ended;
 - (d) a licensing authority has served notice on the holder of a 2000 Order licence that it proposes to hold a hearing at which suspension under paragraph 11 of schedule 1 to the 1982 Act will be considered, or is considering whether to order suspension under paragraph 12 of that schedule, but—
 - (i) has not yet decided whether or not to order such suspension; or
 - (ii) has decided not to order such suspension and that decision has not yet become final;
 - (e) a decision has been taken to grant an application for a 2000 Order licence, but the decision has not yet become final;
 - (f) a decision to grant an application for a 2000 Order licence has become final, but the licence has not yet come into force on account of a licence condition or conditions; or
 - (g) a licensing authority has served notice on the holder of a 2000 Order licence that it proposes to consider variation of the terms of that licence in terms of paragraph 10 of schedule 1 to the 1982 Act and either—
 - (i) it has not yet decided whether or not to vary the terms of the licence;
 - (ii) it has decided to vary the terms of the licence, but that variation has not yet come into force; or
 - (iii) it has decided not to vary the terms of the licence, but that decision has not yet become final.
- (2) From the transition date, any licence—
- (a) granted in respect of an application to which paragraph (1)(a) or (b) applies;
 - (b) coming into force in consequence of the ending of a period of suspension to which paragraph (1)(c) or (d) applies (unless the suspension was ordered under paragraph 12 of schedule 1 to the 1982 Act and a further suspension has been ordered, in which case the suspensions shall be regarded as one period);

- (c) to which paragraph (1)(c) or (d) applies but in respect of which a decision is taken (whether on appeal or otherwise) not to order or give effect to a period of suspension;
- (d) to which paragraph (1)(e) applies and the decision to grant the licence becomes final;
- (e) to which paragraph (1)(f) applies, which comes into force;
- (f) to which paragraph (1)(g) applies and in respect of which a decision is taken, or has been taken, not to vary the licence (whether on appeal or otherwise), and such a decision becomes final; or
- (g) to which paragraph (1)(g) applies and in respect of which a variation comes into force;

shall be deemed instead of being a 2000 Order licence to be an HMO licence granted under or by virtue of the 2006 Act with the same expiry date and subject to the same, if any, conditions that are attached to it—

- (i) where subparagraph (a) applies, from the date any decision to grant the licence becomes final;
- (ii) where subparagraph (b) or (e) applies, from the date the licence comes into force;
- (iii) where subparagraph (c), (d) or (f) applies, from the date of the decision becoming final; and
- (iv) where subparagraph (g) applies, from the date the variation comes into force.

(3) For the purposes of paragraphs (1) and (2), a decision becomes final—

- (i) when the time within which an appeal may be made has elapsed; or
- (ii) where an appeal is lodged, when the appeal is abandoned or determined.

(4) Section 124(1) of the 2006 Act (requirement for HMOs to be licensed) shall not apply to any house in multiple occupation in respect of which a licence is in force under the 2000 Order by virtue of this article.