



# Housing Act 2004

## 2004 CHAPTER 34

### PART 7

#### SUPPLEMENTARY AND FINAL PROVISIONS

##### *Meaning of “house in multiple occupation”*

#### **254 Meaning of “house in multiple occupation”**

- (1) For the purposes of this Act a building or a part of a building is a “house in multiple occupation” if—
- (a) it meets the conditions in subsection (2) (“the standard test”);
  - (b) it meets the conditions in subsection (3) (“the self-contained flat test”);
  - (c) it meets the conditions in subsection (4) (“the converted building test”);
  - (d) an HMO declaration is in force in respect of it under section 255; or
  - (e) it is a converted block of flats to which section 257 applies.
- (2) A building or a part of a building meets the standard test if—
- (a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;
  - (b) the living accommodation is occupied by persons who do not form a single household (see section 258);
  - (c) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);
  - (d) their occupation of the living accommodation constitutes the only use of that accommodation;
  - (e) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and
  - (f) two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.

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- (3) A part of a building meets the self-contained flat test if—
  - (a) it consists of a self-contained flat; and
  - (b) paragraphs (b) to (f) of subsection (2) apply (reading references to the living accommodation concerned as references to the flat).
- (4) A building or a part of a building meets the converted building test if—
  - (a) it is a converted building;
  - (b) it contains one or more units of living accommodation that do not consist of a self-contained flat or flats (whether or not it also contains any such flat or flats);
  - (c) the living accommodation is occupied by persons who do not form a single household (see section 258);
  - (d) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);
  - (e) their occupation of the living accommodation constitutes the only use of that accommodation; and
  - (f) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation.
- (5) But for any purposes of this Act (other than those of Part 1) a building or part of a building within subsection (1) is not a house in multiple occupation if it is listed in Schedule 14.
- (6) The appropriate national authority may by regulations—
  - (a) make such amendments of this section and sections 255 to 259 as the authority considers appropriate with a view to securing that any building or part of a building of a description specified in the regulations is or is not to be a house in multiple occupation for any specified purposes of this Act;
  - (b) provide for such amendments to have effect also for the purposes of definitions in other enactments that operate by reference to this Act;
  - (c) make such consequential amendments of any provision of this Act, or any other enactment, as the authority considers appropriate.
- (7) Regulations under subsection (6) may frame any description by reference to any matters or circumstances whatever.
- (8) In this section—
  - “basic amenities” means—
    - (a) a toilet,
    - (b) personal washing facilities, or
    - (c) cooking facilities;
  - “converted building” means a building or part of a building consisting of living accommodation in which one or more units of such accommodation have been created since the building or part was constructed;
  - “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30));
  - “self-contained flat” means a separate set of premises (whether or not on the same floor)—
    - (a) which forms part of a building;

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- (b) either the whole or a material part of which lies above or below some other part of the building; and
- (c) in which all three basic amenities are available for the exclusive use of its occupants.

#### Commencement Information

- II** S. 254 wholly in force at 18.1.2005; s. 254 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

## 255 HMO declarations

- (1) If a local housing authority are satisfied that subsection (2) applies to a building or part of a building in their area, they may serve a notice under this section (an “HMO declaration”) declaring the building or part to be a house in multiple occupation.
- (2) This subsection applies to a building or part of a building if the building or part meets any of the following tests (as it applies without the sole use condition)—
  - (a) the standard test (see section 254(2)),
  - (b) the self-contained flat test (see section 254(3)), or
  - (c) the converted building test (see section 254(4)),and the occupation, by persons who do not form a single household, of the living accommodation or flat referred to in the test in question constitutes a significant use of that accommodation or flat.
- (3) In subsection (2) “the sole use condition” means the condition contained in—
  - (a) section 254(2)(d) (as it applies for the purposes of the standard test or the self-contained flat test), or
  - (b) section 254(4)(e),as the case may be.
- (4) The notice must—
  - (a) state the date of the authority’s decision to serve the notice,
  - (b) be served on each relevant person within the period of seven days beginning with the date of that decision,
  - (c) state the day on which it will come into force if no appeal is made under subsection (9) against the authority’s decision, and
  - (d) set out the right to appeal against the decision under subsection (9) and the period within which an appeal may be made.
- (5) The day stated in the notice under subsection (4)(c) must be not less than 28 days after the date of the authority’s decision to serve the notice.
- (6) If no appeal is made under subsection (9) before the end of that period of 28 days, the notice comes into force on the day stated in the notice.
- (7) If such an appeal is made before the end of that period of 28 days, the notice does not come into force unless and until a decision is given on the appeal which confirms the notice and either—
  - (a) the period within which an appeal to the <sup>[F1]</sup>Upper Tribunal may be brought expires without such an appeal having been brought, or

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- (b) if an appeal to the [<sup>F1</sup>Upper Tribunal] is brought, a decision is given on the appeal which confirms the notice.
- (8) For the purposes of subsection (7), the withdrawal of an appeal has the same effect as a decision which confirms the notice appealed against.
- (9) Any relevant person may appeal to [<sup>F2</sup>the appropriate tribunal] against a decision of the local housing authority to serve an HMO declaration.  
  
The appeal must be made within the period of 28 days beginning with the date of the authority’s decision.
- (10) Such an appeal—
  - (a) is to be by way of a re-hearing, but
  - (b) may be determined having regard to matters of which the authority were unaware.
- (11) The tribunal may—
  - (a) confirm or reverse the decision of the authority, and
  - (b) if it reverses the decision, revoke the HMO declaration.
- (12) In this section and section 256 “relevant person”, in relation to an HMO declaration, means any person who, to the knowledge of the local housing authority, is—
  - (a) a person having an estate or interest in the building or part of the building concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or
  - (b) a person managing or having control of that building or part (and not falling within paragraph (a)).
- [<sup>F3</sup>(13) For the purposes of this section and section 256, “appropriate tribunal” means—
  - (a) in relation to a building in England, the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal; and
  - (b) in relation to a building in Wales, a residential property tribunal.]

#### Textual Amendments

- F1** Words in s. 255(7)(a)(b) substituted (1.6.2009) by [Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 277** (with Sch. 5)
- F2** Words in s. 255(9) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 178(a)** (with Sch. 3)
- F3** S. 255(13) inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 178(b)** (with Sch. 3)

## 256 Revocation of HMO declarations

- (1) A local housing authority may revoke an HMO declaration served under section 255 at any time if they consider that subsection (2) of that section no longer applies to the building or part of the building in respect of which the declaration was served.
- (2) The power to revoke an HMO declaration is exercisable by the authority either—
  - (a) on an application made by a relevant person, or
  - (b) on the authority’s own initiative.

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- (3) If, on an application by such a person, the authority decide not to revoke the HMO declaration, they must without delay serve on him a notice informing him of—
- (a) the decision,
  - (b) the reasons for it and the date on which it was made,
  - (c) the right to appeal against it under subsection (4), and
  - (d) the period within which an appeal may be made under that subsection.

- (4) A person who applies to a local housing authority for the revocation of an HMO declaration under subsection (1) may appeal to [<sup>F4</sup>the appropriate tribunal] against a decision of the authority to refuse to revoke the notice.

The appeal must be made within the period of 28 days beginning with the date specified under subsection (3) as the date on which the decision was made.

- (5) Such an appeal—
- (a) is to be by way of a re-hearing, but
  - (b) may be determined having regard to matters of which the authority were unaware.
- (6) The tribunal may—
- (a) confirm or reverse the decision of the authority, and
  - (b) if it reverses the decision, revoke the HMO declaration.

#### Textual Amendments

- F4** Words in s. 256(4) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 179](#) (with [Sch. 3](#))

## 257 HMOs: certain converted blocks of flats

- (1) For the purposes of this section a “converted block of flats” means a building or part of a building which—
- (a) has been converted into, and
  - (b) consists of, self-contained flats.
- (2) This section applies to a converted block of flats if—
- (a) building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them; and
  - (b) less than two-thirds of the self-contained flats are owner-occupied.
- (3) In subsection (2) “appropriate building standards” means—
- (a) in the case of a converted block of flats—
    - (i) on which building work was completed before 1st June 1992 or which is dealt with by regulation 20 of the Building Regulations 1991 (S.I. 1991/2768), and
    - (ii) which would not have been exempt under those Regulations,

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- building standards equivalent to those imposed, in relation to a building or part of a building to which those Regulations applied, by those Regulations as they had effect on 1st June 1992; and
- (b) in the case of any other converted block of flats, the requirements imposed at the time in relation to it by regulations under section 1 of the Building Act 1984 (c. 55).
- (4) For the purposes of subsection (2) a flat is “owner-occupied” if it is occupied—
- (a) by a person who has a lease of the flat which has been granted for a term of more than 21 years,
  - (b) by a person who has the freehold estate in the converted block of flats, or
  - (c) by a member of the household of a person within paragraph (a) or (b).
- (5) The fact that this section applies to a converted block of flats (with the result that it is a house in multiple occupation under section 254(1)(e)), does not affect the status of any flat in the block as a house in multiple occupation.
- (6) In this section “self-contained flat” has the same meaning as in section 254.

## **258 HMOs: persons not forming a single household**

- (1) This section sets out when persons are to be regarded as not forming a single household for the purposes of section 254.
- (2) Persons are to be regarded as not forming a single household unless—
- (a) they are all members of the same family, or
  - (b) their circumstances are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.
- (3) For the purposes of subsection (2)(a) a person is a member of the same family as another person if—
- (a) those persons are married to <sup>F5</sup>, or civil partners of, each other or live together as if they were a married couple or civil partners];
  - (b) one of them is a relative of the other; or
  - (c) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.
- (4) For those purposes—
- (a) a “couple” means two persons who <sup>F6</sup>... fall within subsection (3)(a);
  - (b) “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
  - (c) a relationship of the half-blood shall be treated as a relationship of the whole blood; and
  - (d) the stepchild of a person shall be treated as his child.
- (5) Regulations under subsection (2)(b) may, in particular, secure that a group of persons are to be regarded as forming a single household only where (as the regulations may require) each member of the group has a prescribed relationship, or at least one of a number of prescribed relationships, to any one or more of the others.
- (6) In subsection (5) “prescribed relationship” means any relationship of a description specified in the regulations.

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#### Textual Amendments

- F5** Words in s. 258(3)(a) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), [Sch. 3 para. 26\(4\)\(a\)](#)
- F6** Words in s. 258(4)(a) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), [Sch. 3 para. 26\(4\)\(b\)](#)

#### Commencement Information

- I2** S. 258 wholly in force at 18.1.2005; s. 258 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

### 259 HMOs: persons treated as occupying premises as only or main residence

- (1) This section sets out when persons are to be treated for the purposes of section 254 as occupying a building or part of a building as their only or main residence.
- (2) A person is to be treated as so occupying a building or part of a building if it is occupied by the person—
- (a) as the person’s residence for the purpose of undertaking a full-time course of further or higher education;
  - (b) as a refuge, or
  - (c) in any other circumstances which are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.
- (3) In subsection (2)(b) “refuge” means a building or part of a building managed by a voluntary organisation and used wholly or mainly for the temporary accommodation of persons who have left their homes as a result of—
- (a) physical violence or mental abuse, or
  - (b) threats of such violence or abuse,
- from persons [<sup>F7</sup>who are or were their spouses or civil partners] or with whom they are or were co-habiting.

#### Textual Amendments

- F7** Words in s. 259(3) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), [Sch. 3 para. 26\(5\)](#)

#### Commencement Information

- I3** S. 259 wholly in force at 18.1.2005; s. 259 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

### 260 HMOs: presumption that sole use condition or significant use condition is met

- (1) Where a question arises in any proceedings as to whether either of the following is met in respect of a building or part of a building—
- (a) the sole use condition, or
  - (b) the significant use condition,

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it shall be presumed, for the purposes of the proceedings, that the condition is met unless the contrary is shown.

(2) In this section—

- (a) “the sole use condition” means the condition contained in—
  - (i) section 254(2)(d) (as it applies for the purposes of the standard test or the self-contained flat test), or
  - (ii) section 254(4)(e),as the case may be; and
- (b) “the significant use condition” means the condition contained in section 255(2) that the occupation of the living accommodation or flat referred to in that provision by persons who do not form a single household constitutes a significant use of that accommodation or flat.



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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172](#) Regulations

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1A) inserted by [2016 c. 22 s. 125\(3\)\(a\)](#)
- s. 66(3A)(3B) inserted by [2016 c. 22 s. 125\(3\)\(c\)](#)
- s. 89(1A) inserted by [2016 c. 22 s. 125\(6\)\(a\)](#)
- s. 89(3A)(3B) inserted by [2016 c. 22 s. 125\(6\)\(c\)](#)
- s. 139(7A)(7B) inserted by [2016 c. 22 s. 127\(3\)](#)