

# **HOUSES IN MULTIPLE OCCUPATION BILL**

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## **EXPLANATORY AND FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Explanatory and Financial memorandum has been prepared by the Department for Social Development (“the Department”) in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. The purpose of the Bill is to enable better regulation of Houses in Multiple Occupation (HMO), by introducing a system of licensing and new provisions about standards of housing. It also aims to streamline the definition and clarify the law in some other respects.

### **CONSULTATION**

4. There were a number of reasons why it was considered appropriate to undertake a fundamental review. These include an increased need for HMOs due to the ongoing welfare reforms, a need to review the regulatory standards which have been in place since 1992, lack of integration between the regulatory and registration systems of control, and issues highlighted in a 2005 judicial review of the HMO Registration Scheme.
5. On 2 July 2012, the Department published a consultation document on proposals for new HMO legislation. There were fifty responses to the consultation, many of them very detailed, from a wide range of bodies including the Housing Executive, housing associations, district councils and Landlords Associations.
6. The Department wishes to enhance HMOs by improving standards. It wants to introduce a revised system of regulation that will allow targeting of houses in a way that is proportionate to the risk presented. This can only be achieved by having a system of regulation that is flexible enough to respond effectively according to the level of risk encountered. The consultation covered issues arising around HMO definition, exemption, identification, standards, management, interaction between planning and HMO regulation, the behaviour of occupants and enforcement options.

## **OPTIONS CONSIDERED**

7. The consultation paper published in July 2012 set out recommendations and asked a number of detailed questions about the desirability of implementing the various proposals and the best way to achieve the intended aims. The possible options were fully explored at that stage and the provisions of the Bill broadly reflect the views of consultees.
8. Although England, Scotland and Wales have HMO licensing schemes there is currently no licensing requirement in Northern Ireland. Articles 75A to 75N of the Housing (Northern Ireland) Order 1992 as inserted by the Housing (NI) Order 2003 provide for a registration scheme for non-exempted HMOs. The registration scheme is produced and operated by the Northern Ireland Housing Executive (NIHE) subject to approval by the Department. This places the obligation on the regulatory authority to ensure conditions of registration; this is far from ideal.
9. This revised scheme to introduce HMO licensing will bring Northern Ireland into line with other UK jurisdictions. The responsibility for HMO regulation and enforcement is transferring to the councils under this Bill and as such will add to the number of licensing schemes already operated by councils and prove more effective for the delivery of the scheme.

## **OVERVIEW**

10. The Bill has 91 clauses and 8 Schedules. A commentary on the provisions follows (comments are not given where the wording is self-explanatory).

## **COMMENTARY ON CLAUSES**

### **PART 1: MEANING OF “HOUSE IN MULTIPLE OCCUPATION”**

#### **Clause 1: Meaning of “house in multiple occupation”**

A House in Multiple Occupation (HMO) is defined in **Clause 1** as a building or part of a building (e.g. a flat) that is classed as living accommodation and is occupied by three or more people, who are members of more than two households. Additionally, accommodation is not an HMO unless rents are payable or other consideration is provided in respect of the accommodation. The clause also introduces Schedule 1 (exceptions) and confers a power to amend the definition of “house in multiple occupation”.

#### **Clause 2: Definition of living accommodation**

Clause 2 defines “living accommodation” for the purposes of clause 1. A building, or part of a building, is living accommodation (i) if it is capable of being occupied as a separate dwelling or (ii) if it forms part of any building or group of building in single ownership and its occupants share a toilet, personal washing facilities or facilities for the preparation or provision of cooked food. “Single ownership” is defined in subsections (2) and (3) in a way which prevents avoidance of the legislation by artificially dividing ownership of a property between members of a family or connected companies.

**Clause 3: Cases where person is treated as occupying accommodation as only or main residence**

Clause 3 outlines the fact that people count as occupants only if the accommodation is their only or main residence. However, accommodation occupied by a student during term time is regarded as that person's only or main residence. People staying in domestic violence refuges are to be treated as occupying them as their only or main residence.

**Clause 4: Persons who are members of the same household**

Clause 4 specifies the meaning of "household" for the purposes of HMO licensing. This includes members of the same "family": the definition of family includes married, unmarried and same-sex couples, and step children, as well as blood relatives. Additionally, a person who is a personal or domestic carer in a residential capacity is to be treated as a member of the household for the purposes of this Bill. There is a power for the Department to provide that other persons are treated as being in the same "household".

**Clause 5: Notice regarding evidence of household**

Clause 5 makes provision for a council to serve a notice on the occupants of a house where the council believe there are more than three people residing in the property and these people form more than two separate households. If insufficient evidence is provided that the house is not an HMO, the house is to be regarded as being one.

**Clause 6: Notice regarding continuation of occupation**

Clause 6 makes provision for a council to serve a notice on a property that has ceased to operate as an HMO, because its occupants have reduced below 3, but which the council believe is likely to become an HMO again within 4 months. For example a student house during the summer months can then be treated as an HMO for certain regulatory purposes, even though it may actually have fewer than 3 people residing in it during those months.

**PART 2: LICENSING OF HOUSES IN MULTIPLE OCCUPATION**

**Clause 7: Requirement for HMOs to be licensed**

Clause 7 requires every house in multiple occupation that is not exempted to be licensed. A licence for an HMO authorises its holder and any agent named on the licence to allow the HMO to be occupied in accordance with the licence conditions. The clause also sets out that licences are to be issued by district councils for houses in their area, and the information which must be specified in a licence.

**Clause 8: Applications for HMO licence**

Clause 8 outlines that applications must be made by the owner of the HMO. It also sets out the matters that are to be taken into account when a council is considering an application for an HMO licence. The details of the procedural requirements, in relation to an application for an HMO licence, are contained within Schedule 2.

### **Clause 9: Breach of planning control**

Clause 8(2)(a), as read with the definition in clause 9, provides that an application will be refused if the council feels there has been a breach of planning control. Carrying out development without the planning permission required or failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control. Refusals on this ground are treated slightly differently from refusals on other grounds. In particular, the refusal must be made with 28 days of the application and there is no appeal to the county court. However, if the applicant can show that there is no breach of planning control, they can make a renewed application for no additional fee.

### **Clause 10: Fit and proper persons**

Clause 10 specifies matters to which the council shall have regard (in addition to other things it may consider) when deciding whether an applicant or an applicant's agent is a fit and proper person. The material specified is: whether the person has committed certain types of offence, practiced unlawful discrimination or contravened housing law or landlord and tenant law; actions or failures to act in relation to antisocial behaviour affecting a house let by the applicant or for which the applicant was an agent; and other material considered by the local authority to be relevant.

### **Clause 11: Satisfactory management arrangements**

Clause 11 outlines the considerations that a council may take into account when deciding whether suitable management arrangements are in place at application stage.

### **Clause 12: Overprovision**

Clause 12 states that, in deciding whether the granting of a licence will result in overprovision, councils must have regard to the number and capacity of licensed HMOs in an area, the need for this type of accommodation in that locality and such other matters as the Department may specify through regulations. Although a first-time application for a licence can be refused on the ground that it would result in overprovision of HMOs, an application to renew a licence cannot (see clause 20).

### **Clause 13: Suitability of living accommodation for multiple occupation:**

Clause 8(2)(e), as read with clause 13, states that councils may only grant a licence if they are satisfied that the accommodation is suitable for use as an HMO for the specified maximum number of persons or could be made so by including conditions in the licence. The criteria that the councils must consider are given. It includes a power for the Department to set out minimum standards in regulations.

### **Clause 14: Licence conditions**

Clause 14 deals with the conditions that may be contained in licences. The council may include any conditions it considers appropriate for regulating the management, use and occupation of an HMO. The Department may also specify in regulations conditions which must be included. Conditions can include dates by which they come into effect.

### **Clause 15: Temporary exemption notice**

Clause 15 allows a council to issue a temporary exemption notice if the owner of an unlicensed HMO applies for one. The owner must explain the steps to be taken to stop the premises from being an HMO (such as ensuring that the number of occupants reduces below 3, or that sufficient basic amenities for exclusive use are installed so that occupants do not have to share them), and the council must be satisfied that these steps will be successful. The HMO does not need a licence during the term of the notice, which is three months unless extended in exceptional circumstances.

**Clause 16: Extension of temporary exemption notice**

Clause 16 allows for the extension of temporary exemption notice if the council are satisfied that special circumstances exist. A notice may be extended only once, and only for up to 3 months.

**Clause 17: Safety and security requirements**

Clause 17 specifies that the temporary exemption notice may require the owner to carry out work to improve the safety or security of the occupants for the duration of the notice. This could include minor works or the provision of removable equipment where licence conditions would normally require permanent, fixed items.

**Clause 18: Revocation of temporary exemption notice**

Clause 18 specifies that if a council is satisfied that an HMO owner has failed to comply with any requirement included in a temporary exemption notice, the council may revoke that notice.

**Clause 19: Duration of HMO licence**

Clause 19 states that an HMO licence lasts for five years, or a shorter period specified in the licence which cannot be less than six months. It starts on the date when notice of the decision to grant the licence is served on the owner, or another date specified in the licence. In the case of a licence granted because the council did not come to a decision within the period required, the licence will last for one year from the end of that period.

**Clause 20: Renewal of licence**

Clause 20 provides for the renewal of an existing licence which must be made before the current licence ceases to have effect. As noted above, overprovision (Clause 12) is not a ground for refusing an application to renew.

**Clause 21: Application to renew: effect on existing licence**

Clause 21 specifies that where an application to renew a licence is made the existing licence has effect until: the date of the new licence is granted or (if the renewal application is refused) the date the current licence ceases to have effect. Slightly different rules apply if the refusal is on the ground of breach of planning control.

**Clause 22: Variation of licences**

Clause 22 sets out the procedure for varying a licence, which a council may do for its own reasons or at the request of the licence holder. If the council proposes the variation, it must give its reasons.

**Clause 23: Revocation of licences**

Clause 23 allows a council to revoke a licence at any time. There are a number of possible grounds that may lead to the revocation of a licence. The licence holder or agent is no longer a fit and proper person under Clause 10; the accommodation is not fit for human habitation; the HMO management arrangements are not satisfactory; the accommodation is no longer suitable for use as an HMO and cannot be made suitable; there has been a serious breach of a condition of the licence; there has been more than one breach of a condition (not necessarily a serious one). This Clause also specifies that it does not matter if the council has taken any other action or criminal proceedings have been commenced, the licence can still be revoked.

**Clause 24: Variation and revocation: procedure**

Clause 24 introduces Schedule 4, which makes provision about the procedure for varying or revoking a licence.

**Clause 25: Restriction on applications**

Clause 25 prevents the council from considering certain applications. If an application was refused on the ground that a person was not a fit and proper person, the council may not consider an application from that person (for any accommodation) within a year of the refusal. If an application was refused on a ground relating to the accommodation (where the granting of the licence would create a situation of overprovision or where the accommodation is not habitable or suitable for use as an HMO), the council may not consider an application (from anyone) in relation to that accommodation, with the same period. This restriction does not apply if the local authority is satisfied that there has been a material change of circumstances, for example if a physical feature which made the property unsuitable for licensing has been altered.

**Clause 26: Joint licence holders**

Clause 26 deals with the situation where an HMO is owned jointly by more than one person. The application for a licence may be made by one owner or jointly by more than one. Any joint licence holders can request to be removed from the licence at any time provided one owner continues to hold the licence.

**Clause 27: Surrender of HMO licence**

Clause 27 specifies that the holder of an HMO licence may surrender the licence by giving notice to the council, in the specified form, to that effect.

**Clause 28: Change of ownership: effect on licence**

Clause 28 states that an HMO licence may not be transferred to a new owner. So when a property changes hands, any HMO licence for the property ceases to have effect.

**Clause 29: Death of sole licence holder: effect on licence**

Clause 29 transfers the licence of a deceased sole licence-holder to that person's executor. The licence expires three months after the date of death, unless the council is satisfied that it is reasonable to extend it in order to wind up the holder's estate.

### **PART 3: ENFORCEMENT OF LICENSING REQUIREMENTS**

#### **Clause 30: Unlicensed HMO**

This clause creates a number of criminal offences relating to HMO licensing. An owner of a licensable HMO without a licence is committing an offence (unless the owner has a reasonable excuse). A person who acts as an agent for an HMO which is not licensed also commits an offence. And where the owner of an unlicensed HMO instructs an agent to act in relation to that house, the owner commits an offence.

#### **Clause 31: Exceeding licensed occupancy or breach of licence conditions**

This clause creates the offence of allowing an HMO to be occupied in excess of the number of persons authorised on the licence. It also creates offences related to breaching conditions in a licence. An owner, agent or other person named in the licence commits an offence if they breach a condition included in a licence. And an owner or agent commits an offence if any other licence condition is breached and they do not take reasonable measures to prevent it.

#### **Clause 32: Untrue claim that HMO is licensed**

This clause makes it an offence to claim that an HMO is licensed when it is not.

#### **Clause 33: Agents not named in licence**

This clause makes it an offence for an owner to authorise an agent to act in relation to house if the agent is not named in the licence. It also makes it an offence for a person to act as an agent in those circumstances.

#### **Clause 34: Reasonable excuse**

This clause sets out some circumstances in which the owner of an HMO has a reasonable excuse for the purposes of clauses 30(1) and 31(2) and (3).

#### **Clause 35: Power to require rectification of breach**

Clause 35 specifies that a council can serve a notice on a licence holder requiring action to be taken to rectify or prevent a breach of a condition in an HMO licence. A notice can be served irrespective of whether the council has taken any other action or whether criminal proceedings have been commenced. The action required may include the carrying out of work in or to the HMO.

#### **Clause 36: Revocation of rectification notice**

This clause outlines the circumstances in, and process by which, a council may revoke a rectification notice under clause 35. In particular, a notice must be revoked if all the requirements set out in it have been complied with.

#### **Clause 37: Failure to comply with rectification notice**

If the owner of an HMO fails to take any action specified in the rectification notice, by the date given in the notice, they will have committed an offence under clause 37. In determining the seriousness of that offence (for example, for the purposes of setting a fine), regard is to be had to the original breach which led to the issuing of the rectification notice.

**Clause 38: Revocation orders and disqualification orders**

This clause gives a court powers to revoke an HMO licence and disqualify an owner from holding a licence, or an agent from being named on a licence, for a period not exceeding five years. These powers can be used on conviction of an offence under various provisions of the Bill.

**Clause 39: Revocations and disqualifications: appeals**

This clause specifies that a person may appeal against a revocation order or disqualification order.

**Clause 40: Discharge of disqualification orders**

This clause specifies that the court which made the disqualification order may discharge the order with effect from such date as the court may specify, if the court is satisfied that there has been a change in circumstances which justifies doing so.

**PART 4: STANDARDS OF HOUSING**

**CHAPTER 1: OVERCROWDING**

**Clause 41: Definition of overcrowding**

This clause defines an HMO as being overcrowded when the number of persons sleeping in it contravenes either the room standard or the space standard.

**Clause 42: The room standard**

This clause outlines the circumstances which are designated as a contravention of the room standard. These are circumstances in which persons aged 13 or over must share with another person of that age or with a couple.

**Clause 43: The space standard**

This clause outlines the circumstances which may be designated as a contravention of the space standard. These relate to the amount of floor space there is in the property for each person resident of it.

**Clauses 44 and 45: Overcrowding notices**

Clauses 44 and 45 give the council the power to issue a notice where they believe an HMO is, or likely to become overcrowded. An overcrowding notice must, for each room, either stipulate the maximum number of persons who may occupy the room or specify that the room is unsuitable for occupation. This makes clear the maximum possible sleeping arrangement in the house.

**Clause 46: Requirement as to overcrowding generally**

The requirement under clause 46 requires that the terms of the notice must not be breached by allowing an unsuitable room to be occupied as sleeping accommodation and that the room standard must not be contravened. A notice including this requirement can have the effect of



requiring the owner to reduce the occupancy of the house immediately – for example, by terminating a tenancy.

**Clause 47: Requirement not to permit new residents**

Clause 47 is very similar in its effect to Clause 46, except that it covers occupation by new residents i.e. anyone not resident when the notice was served. This allows the existing situation to continue, even if the house is “overcrowded”.

**Clause 48: Notice requiring further information**

Clause 48 allows the council to serve a notice requiring further information in relation to overcrowding. The information requested may be, among other things, the number of people sleeping within the HMO, the names of those individuals, the number of households to which they belong and the rooms used by the individuals and households respectively. This information may be used to determine whether an overcrowding notice has been breached, but may not be used in criminal proceedings against the person providing the information.

**Clause 49: Information notice: supplementary provisions**

Clause 49 provides that a person commits an offence if they fail to provide information requested by an information notice or if they provide false or misleading information.

**CHAPTER 2: SUITABILITY FOR NUMBERS IN OCCUPATION**

**Clause 50: Suitability notice**

This clause makes arrangements about HMO suitability notices. Such a notice can be served in relation to any HMO which the local authority considers is not reasonably fit for occupation by the number of persons occupying it.

**Clause 51: Contents of suitability notice**

Clause 51 directs that a suitability notice must specify what the council considers to be the maximum number of persons by whom the HMO is suitable to be occupied. A suitability notice must contain either the general occupancy requirement or the new residents’ occupancy requirement. It may also contain a statement of remedial work.

**Clause 52: Occupancy requirements**

Clause 52 sets out that the general occupancy requirement is that the person on whom the notice is served must refrain from permitting more than the maximum number of persons to occupy the HMO. As with the similar requirement in an overcrowding notice, this can have the effect of requiring the owner to reduce the occupancy of the house immediately – for example, by terminating a tenancy. The new residents’ occupancy requirement is that the person on whom the notice is served must refrain from permitting any new resident to occupy the HMO if that person’s occupation results in the HMO being occupied by more than the maximum number of persons. This can be used where the council considers that, although the accommodation is unsuitable for its current number of occupants, the balance lies in favour of letting the current situation remain (rather than requiring the immediate departure of one or more residents).

**Clause 53: Statement of remedial work**

Clause 53 sets out that a statement of remedial work is a statement of work which the owner of the HMO may undertake and which, if done, will lead to the lifting of the suitability notice. Although the owner is not required to carry out the work, they can choose to do so as an alternative to having the restriction on occupancy imposed by the suitability notice.

### **CHAPTER 3: HAZARDS**

#### **Clause 54: Definition of a hazard**

Clause 54 defines that a hazard in an HMO is something that constitutes a risk of harm to the health or safety of an actual or potential occupier. The risk may arise from a deficiency in the accommodation forming the HMO, any building or land the accommodation forms part of, or any building or land in the vicinity of that accommodation.

**Clause 55: Hazard notice** This clause makes arrangements about hazard notices. Such a notice can be served where a council is satisfied that a hazard exists in relation to an HMO. There is also provision for this notice to be treated as an “emergency hazard notice” that can come into operation immediately where there is an imminent risk to any of the occupiers of the HMO.

**Clause 56: Contents of hazard notice: prohibitions** A hazard notice may impose prohibitions on the use of any premises as the council considers appropriate in view of the hazard(s) to which the notice relates. Where the hazard affects a flat, the prohibition may cover the use of any part of the building containing the flat or any external common parts. A prohibition may include a requirement to obtain the approval of the council for the use of the property in particular ways.

**Clause 57: Contents of hazard notice: other matters** A hazard notice must specify in relation to each hazard: the nature of the hazard; the HMO in which it exists; the deficiency giving rise to the hazard; and the date on which the notice is made.

**Clause 58: Works requirement** A hazard notice may also contain a works requirement. Clause 58 sets out that a works requirement is that an owner carry out work in order to remove the hazard. The work must be specified in the notice and can be anything which the council regards as appropriate for removing the hazard. If the work is done, the hazard notice must be lifted.

**Clause 59: Approvals as to the use of premises** This clause states that any approval of the council with regards to a prohibition placed on a property must not be unreasonably withheld and that the owner may appeal to a magistrates’ court against a refusal to give approval.

### **CHAPTER 4: FURTHER PROVISIONS ABOUT NOTICES UNDER THIS PART**

**Clause 60: Offences** This clause sets out the key criminal offences regarding notices under Part 4 of the Bill. These relate to failure to comply with requirements set out in a notice.

**Clause 61: Further provisions** Clause 61 introduces Schedule 5, which makes further provisions about notices under this Part.

### **PART 5: SUPPLEMENTARY**

**Clause 62: HMO register** Clause 62 requires each council to keep an HMO register containing details of each application for an HMO licence, the decision made on the application and subsequent progress of the licence. The register is to be publicly available, but the council must exclude any information that it considers could put any person or premises at risk.

**Clause 63: Code of practice** This clause creates a power for the Department to make regulations approving a code of practice laying down standards of conduct and practice to be followed with regard to the management of houses in multiple occupation.

**Clause 64: Fixed penalty: service of notice** Clauses 64 to 66 provide for fixed penalty notices to be issued, instead of criminal proceedings. Clause 64 allows an authorised officer of the council, who has reason to believe that an offence has been committed, to serve a fixed penalty notice. The notice must set out the offence which is alleged to have been committed, and state the amount of the fixed penalty.

**Clause 65: Fixed penalty: effect of notice** Where a fixed penalty notice is served on a person in respect of an offence, no criminal proceedings may be commenced against the person for the offence before the time specified in the notice has elapsed. The person may not be convicted of the offence if the person pays the fixed penalty notice.

**Clause 66: Fixed penalty: power to alter amounts** Clause 66 allows for the Department for Social Development to alter the amounts of fixed penalty notices.

**Clause 67: Appeals** Clause 67 lists the decisions against which an appeal may be made. Any person on whom the council is required to serve notice of a decision has the right to appeal against the decision to the county court. They must do so within 28 days (or within 7 days of receiving notice of the decision, if later), although the county court may decide to hear a late appeal if there are special circumstances.

**Clause 68: Council's statement of reasons for decisions which may be appealed** This Clause specifies that when any decision to which Clause 67 applies is made, then the council must include a statement informing the person (a) that they may request an explanation of the council's reason for the decision and (b) of the right to the appeal of this decision under Clause 67. Where a statement of reasons is requested, the council must supply that statement within time for the person to be able to appeal the decision. This right to a separate statement of reasons does not apply where the reasons for the decision are included in the original notice of the decision.

**Clause 69: Powers of court on appeal** An appeal under Clause 67 is to be by way of re-hearing, but may be determined taking into account matters of which the council were not originally aware. The county court may confirm, vary or quash the decision of the council, or may remit it back to the council for reconsideration.

**Clause 70: Powers to require information and documentation: introductory** The powers conferred on the council by Clause 71, 72 and 73 are for the purpose of enabling the council to exercise any function on it conferred by this Bill and/or investigating whether any offence has been committed under this Bill.

**Clause 71: Power to obtain information from persons connected to the premises** This clause allows a council to serve notice on certain persons (defined as “relevant persons”) to provide them in writing with details such as: the nature of the person’s estate in the premises, the name and address of any other person known to them to have an estate in the premises, any other information which the council may reasonably require and may be known to the person. The notice may also require the person to disclose the relationship between themselves and any other occupiers for the purpose of establishing households and whether the premises are, or contain, an HMO. “Relevant persons” include licence holders, owners, occupiers and agents in relation to premises.

**Clause 72: Power to require persons connected with the premises to produce documents** This clause allows the council to serve a notice on a “relevant person” (which has the same meaning as in clause 71) requiring the person to produce documents which the council requires and believes are in the person’s custody or control.

**Clause 73: Power to obtain information from other persons** This clause outlines that the council may require a “relevant person” to provide the council, in writing, any “relevant information” under that person’s custody or control. The clause then goes on to list those considered as “relevant persons” for this purpose (which are different from those for purposes of clauses 71 and 72) e.g. NIHE, educational institutions, estate agents, etc. The clause also sets out what is considered “relevant information” e.g. information which indicates a building or part of a building may be an HMO.

**Clause 74: Failure to comply with notice under Clause 71, 72 or 73** A person commits an offence if they refuse or fail to provide information or a document requested under Clauses 71, 72 or 73 and does not have a reasonable excuse for that failure, or if they supply false information or falsify a document.

**Clause 75: Unauthorised disclosure of information obtained under Clause 73** An employee of the council commits an offence if they disclose, without lawful authority, any information which the council has obtained under clause 73 and the employee has acquired through their employment and which relates to accommodation that is, or is believed to be, an HMO. This helps to protect the confidentiality of information obtained from other public authorities under that clause, which may have originally been obtained under statutory powers and for other purposes.

**Clause 76: Court to inform council of convictions** This clause applies where a court convicts a person of any offence under this Bill, with the exception of an offence under Clause 75. It requires the clerk of the court to send to the council details of the conviction and sentence and a note of any revocation or disqualification order made by the court in consequence of the conviction.

**Clause 77: Powers of entry: without warrant** This clause applies where a council considers that an examination of any living accommodation is required to allow them to establish: whether it is an HMO; whether to grant, vary or revoke a licence or whether any other function under this Bill should be exercised. A person, authorised in writing by the council, may carry out the examination at a reasonable time and must give at least 24 hours notice to the owner and occupiers of the accommodation if practicable. The person may not use force in the exercise of the power conferred by this Clause.

**Clause 78: Powers of entry: with warrant** A lay magistrate may issue a warrant under this clause authorising a person named in the warrant to enter and search the premises specified in the warrant. The warrant may only be issued if two conditions are satisfied:

- 1) A person acting on behalf of the council, reasonably requires to enter or search the premises to establish whether an offence has been committed, a requirement imposed by a notice has been or is being complied with or any of the matters mention in Clause 77(1) (a), (b) & (c) (that is, whether living accommodation is an HMO, whether to grant, vary or revoke a licence, or whether to exercise any function under the Bill).
- 2) The premises are unoccupied or temporarily vacant, or applying to the owners or occupiers for entry would defeat the purpose of the entry or the search, or entry has already been sought under Clause 77 but has been refused.

The clause sets out a number of safeguards governing the issue and execution of warrants.

**Clause 79: Powers of entry: supplementary provisions** This clause outlines the additional provisions associated with entering premises under Clause 77 or 78, including an offence of obstructing the execution of a warrant.

**Clause 80: Application by owner where consent withheld**

This clause makes provision for a court of summary jurisdiction to grant the necessary consent to take action where that consent has been unreasonably withheld by a person involved with the property.

**Clause 81: Obstructions**

This clause makes provision for where any person required, authorised or entitled to carry out work for, required by, or on behalf of the council is obstructed in carrying out that work. A court of summary jurisdiction may, upon application, order an individual to allow the authorised person to carry out the action in question. Any person failing to comply with this order is guilty of an offence.

**Clause 82: Effect of moving from accommodation for works to be carried out**

This clause outlines that where a person vacates a premises for the purposes of allowing works to be carried out as required by any notice under the Bill, or a statement of remedial work, their tenancy or other occupancy arrangement is unaffected and is taken to not have been terminated, altered or varied. When the person regains lawful occupation they do so under the same terms.

**Clause 83: HMOs occupied in breach of Act**

This clause confirms that notwithstanding any common law rule that unlawful contracts are not enforceable, a tenancy or licence in respect of an HMO remains enforceable, even if the landlord is required to obtain a licence under Part 2 of the Act but fails to do so.

**Clause 84: Fees**

This clause confers power to make regulations concerning fees, including the maximum amounts to be charged, how fees are to be calculated, and circumstances in which no fee is to be payable or in which fees are to be refunded.

**Clause 85: Guidance**

A council must have regard to guidance issued by the Department about the exercise of its HMO licensing functions.

**Clause 86: Regulations and orders**

This clause confers a power to make consequential and supplementary provision by regulations. It lists the regulations contained within the Bill that are subject to draft affirmative resolution. Regulations which are not listed in the clause are subject to negative resolution. The clause also lists the bodies the Department must consult with when making certain regulations.

**Clause 87: General notices**

This clause directs that any “general notices” issued by a council under the Bill must be given in writing and published in such manner as the council considers appropriate.

**Clause 88: Interpretation**

This clause defines a number of terms used throughout the Bill.

**Clause 89: Consequential amendments and repeals**

This clause gives effect to the consequential amendments and repeals set out in Schedules 7 and 8 to the Bill.

**Clause 90: Commencement**

Clause 90 enables the Department to make provision by order as to the day or days when the provisions of this Bill, excluding Clause 84 to 86, 90 and 91, come into operation. The listed clauses will come into operation upon receiving Royal Assent.

**Clause 91: Short title**

Clause 91 provides that the Act shall be known as the Houses in Multiple Occupation Act (Northern Ireland) 2015.

**SCHEDULES:**

**Schedule 1: Buildings or parts of buildings which are not houses in multiple occupation**  
Schedule 1 contains the detail about the buildings, or parts of buildings that are not classed as HMOs for the purposes of this Bill.

**Schedule 2: Applications for HMO licences: requirements and procedure**  
Schedule 2 contains the detail about the procedure for the consideration of an application for an HMO licence.

**Schedule 3: Further provision about notices that require works to be carried out** Schedule 3 contains the detail about the provisions relating to notices requiring works to be carried out.

Part 1: Provision applying to all notices that specify works

Part 2: Failure to carry out works required by rectification notice or hazard notice

**Schedule 4: Variation and revocation of HMO licences: procedure** Schedule 4 contains the detail about how and why a council may go about varying or revoking an HMO licence.

**Schedule 5: Part 4 notices: further provisions** Schedule 5 contains the detail about the serving and operation of Part 4 notices.

Part 1: Service and date of effect of notices

Part 2: Suspension of effect of notices

Part 3: Variation and revocation

**Schedule 6: Definitions for the purpose of Clause 73** Schedule 6 contains definitions of terms used in Clause 73 of the Bill.

**Schedule 7: Consequential amendments** This Schedule contains the detail of the consequential amendments resulting from the introduction of this Bill.

**Schedule 8: Repeals** This Schedule contains the detail of the repeals resulting from the introduction of this Bill.

## **FINANCIAL EFFECTS OF THE BILL**

11. It is not anticipated that the Bill will give rise to any significant additional expenditure.

## **HUMAN RIGHTS ISSUES**

12. The provisions of the Bill are compatible with the Convention on Human Rights.

## **EQUALITY IMPACT ASSESSMENT**

13. A screening exercise was undertaken on the proposals in accordance with section 75 of the Northern Ireland Act 1998 and did not identify any issues adversely affecting any section 75 groups.

## **SUMMARY OF THE REGULATORY IMPACT ASSESSMENT**

14. A Regulatory Impact Assessment has been completed. Following the date of implementation, the scheme will be evaluated on an ongoing basis to assess and measure its impact and contribution towards achieving its primary objectives.

## **LEGISLATIVE COMPETENCE**

15. The Minister for Social Development had made the following statement under section 9 of the Northern Ireland Act 1998:

*“In my view the Houses in Multiple Occupation Bill would be within the legislative competence of the Northern Ireland Assembly.”*