

## Houses in Multiple Occupation (NI) Bill – Clause by Clause Scrutiny Table

	<b>Houses in Multiple Occupation (NI) Bill</b>
	Purpose: 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.

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

<b>Clause 1</b>	<b>Meaning of “house in multiple occupation”</b>
<b>Explanation</b>	A House in Multiple Occupation (HMO) is defined in <b>Clause 1</b> as a building or part of a building (eg, 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”.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p> <p>1 Welcomes the definition to include ‘any’ building. However concern is raised that common parts may not be covered in the case of a self-contained flat.</p> <p>2 In addition in the circumstances where commercial buildings have been converted may fall outside the scope of the Bill. This is not clear within the proposed definition. It is requested that clarity is provided within any regulations.</p>	<p>1. In the example were the HMO is a shared building, in some instances the council may wish to emphasise the shared responsibility of the HMO owner for the maintenance of the common parts. The Department is content that the appropriate common areas will be addressed as part of the HMO inspection and intend to take this forward with councils and provide guidance and examples which will help councils decide if the HMO licence can be awarded in such scenarios.</p>	

<p>3 Concern - houses converted into multiple flats and how these flats will be treated if there are over occupied by members of the one family. These properties need to be covered by the HMO definition or else a standard for overcrowding across the private rented sector should be introduced to prevent gross overcrowding in house conversions.</p> <p><u>Exemptions within Schedule 1</u></p> <p>4 Exemptions currently pertain to buildings occupied by students, including those run by educational establishments; religious communities; registered housing associations would avail of an exemption. However these types of buildings, in which the most vulnerable may live, are not exempted under the current HMO registration scheme. CEHOG would be concerned that this sector could be regulated by a “light touch” form of accreditation which would not provide uniformity and consistency of standards across the sector.</p> <p>5 In determining the appropriateness of any exemptions CEHOG would ask how many enforcement notices or other types of enforcement actions have been served / taken in relation to these types of buildings.</p> <p>6...the inclusion of houses occupied by owners, may be used by some landlords as a loophole to avoid designation.</p> <p>7 they should be included in the 'head count' as they will assist in forming a different family relationship. We also do not believe it would substantially change the risks in many properties.</p>	<p>2. With the introduction of a new definition and associated exceptions it is intended that this will provide clarification and guidance on what is or is not to be classed as an HMO. This will allow councils to better target those high risk properties, focus resources on licensing and enforce appropriate standards in HMOs. The Department will provide further clarification and guidance.</p> <p>3. In the Bill the amended HMO definition will not fundamentally change how overcrowding is dealt with outside of the HMO regime. The new definition will allow regulation to be targeted in a way that is proportionate to the risk presented. For example, a property with 4 people in it is likely to present fewer risks than one in which 20 people occupy. A schedule in the Bill specifies that the application for a HMO licence includes the number of persons who it is proposed to occupy the accommodation and a subsequent inspection will confirm the maximum number of occupants who can reasonably live there based on the standards expected for the HMO to be licensed. A study undertaken by the Department in 2011 found that, unlike other parts of the UK (particularly London), overcrowding was not a significant issue in Northern Ireland. This is supported by data from the 2014 Continuous Household Survey which indicates household size is reducing. Overcrowding will be considered further as part of the Private Sector Review.</p> <p>4. Existing legislation and in particular the current definition was criticised in the courts (Judicial Review 2005) for being too wide ranging and bringing houses into HMO regulation where it is not warranted. As a result the Department has introduced exceptions as these relate to specific circumstances where there is already a statutory or other requirement acceptable to the Department that meet certain standards equal or better than those in the HMO regulatory scheme.</p>	
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<p>8 Guidance and a methodology provided for enforcement officers in the case of houses occupied by religious communities is requested.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA</p> <p><b>BELFAST CITY COUNCIL</b> reiterate CEHOGS comments numbered 1, 2, 3,6</p> <p>And add that they are concerned that common parts in buildings converted into self contained flats have not been included. This definition may lead to buildings being converted into multiple 2 bedroom flats in order to avoid</p>	<p>5. According to the NIHE the following are the number of enforcement notices served on these types of buildings:</p> <p><b><u>2012-2015</u></b> 97- on housing association buildings for 16 landlords 42 of the 97 were on 2 buildings owned by SHAC which has since been taken over by Oaklee.</p> <p><b><u>2013-2015</u></b> 10 notices served on buildings occupied by religious communities. 1 notice served on an educational establishment.</p> <p>6. The Housing Executive has encountered challenges in regulating self-contained owner occupied flats under existing legislation. The Department have also taken account of the infringement to Human Rights under Article 1 enjoyment of property and the considerable expenditure imposed on those owner occupiers requiring them to regulate their properties. The Department further considers an owner living in a property reduces the level of risk and councils can use enforcement powers if it is found that the owner or agent has provided false information.</p> <p>7. Answer given to 6 applies.</p> <p>8. The Department will provide guidance and examples to assist councils.</p> <p>Note responses given to points 1,2 &amp; 4 &amp; 6.</p>	
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<p>licensing and the overprovision clause in Section 12. In our opinion these type of conversions pose the same risks and have the same impacts. We are also aware of circumstances where units within converted buildings can be overcrowded. The widening of the definition to include buildings converted into self contained flats would also permit this matter to be addressed. (Submission references the definition of a HMO in the 2004 Housing Act)</p> <p><u>Belfast City Council other points on Exemptions</u> Any building specified in Section 5 of Schedule 1 will need to have in place a code compliant with Sec 63 if they are to be considered for this exemption.</p> <p>Support the introduction of accreditation schemes for this purpose built student accommodation but not the exemption from any licensing fee.</p> <p>Request that any future proposals for accreditation schemes should include providers of Student accommodation not linked to an educational establishment via a nominations agreement.</p> <p>Local authorities should administer accreditation schemes</p> <p><b>MID-ULSTER DISTRICT COUNCIL ENVIRONMENTAL HEALTH SECTION</b></p>	<p>The Bill provides for exclusions from the licensing requirement which follow those in other jurisdictions, where it is accepted that certain shared houses do not need to be regulated. Those not considered as HMOs will apply where there is some other form of statutory regulation which is acceptable to the Department, or where, because of the purpose to which the HMO is put, the associated risk to its occupants is reduced to a level where regulation is not needed, for example, because the owner lives in the property.</p> <p>The Department researched the use of ANUK/Unipol Code of Standards for Larger Residential Developments for Student Accommodation Managed and Controlled by Educational Establishments. Department will provide guidance to assist councils.</p> <p>Any accreditation scheme offered by councils in the future would have to be nationally recognised and adhere to standards laid down by UNIPOL. It would then be for councils to attract Universities and providers of student accommodation to sign up to there scheme.</p>	
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<p>Welcomes the definition to include 'any' building. However concern is raised that common parts may not be covered in the case of self-contained flats.</p> <p>In relation to the exemption for 'Buildings Occupied by Owners', the inclusion of houses occupied by owners, may be used by some landlords as a loophole to avoid designation. If an owner lives on the premises then they should be included in the 'head count' as they will assist in forming a different family relationship.</p> <p>Guidance and a methodology provided for enforcement officers in the case of houses occupied by religious communities is requested, as this is often difficult to disprove that the community is living as one.</p> <p><b>NILGA</b></p> <p>Reiterate CEHOG's comments with the additional comments:</p> <p>An approach similar to Rates Relief Regulations 2007 would mean that the exemption will not apply to Purpose Built Managed Student Accommodation run by private providers that operate without nomination arrangements from any of the educational establishments. Given the current level of market interest this could create a two-tier system for regulation of Purpose Built Student Accommodation.</p> <p>NILGA supports the introduction of accreditation schemes for this type of accommodation but not the exemption from any licensing fee. We would also request that any future proposals for accreditation schemes should include</p>	<p>As above.</p> <p>The Department disagrees that this would create a two –tier system. Schedule 1 Clause 5 (a) provides an exception to licensing for those buildings occupied solely or principally by those undertaking full-time course of further or higher education at a specified educational establishment and the person managing or having control is the educational establishment or a specified person. For purpose built managed accommodation under Clause 5 (4) (a) and (b) the Department may except and have regard to those establishments which conform to any code of practice approved under Clause 63. Department intends to list in regulations all acceptable accreditation codes for HMOs.</p>	
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<p>providers of student accommodation not linked to an educational establishment via a nominations agreement.</p> <p>NILGA would also request that any future regulations consider an accreditation scheme and/or a code(s) of standards for student housing that supports all private sector landlords to adopt a proactive approach to managing tenant behavior and improving the quality of housing in this sector. Accreditation schemes should be administered by councils, rather than the Department. NILGA believes that there is potential for such a system to become ‘two-tier’ in operation and potentially confusing.</p> <p><b>CIH NORTHERN IRELAND</b></p> <p>In defining “a building or part of a building” as capable of being an HMO, the Bill does not define under which circumstances the HMO would be one or the other. While CIH Northern Ireland acknowledges that this will be set out in the regulations (subsection three) we believe that it is of fundamental importance as to warrant inclusion in the primary legislation. For example, we would not like to see the regulations allow a scenario where in the case of a traditional single house converted into multiple flats, the individual flats are inappropriately defined as the HMOs which, if occupied by two persons, would mean the building not defined as an HMO despite potentially presenting the same higher risks such as fire safety.</p> <p><b>NORTHERN IRELAND FIRE AND RESCUE SERVICE</b></p> <p>Raise no objection to the wider definition of a HMO being used in the proposed bill.</p>	<p>As above.</p> <p>Department welcomes this comment.</p>	
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<p><b>HOUSING RIGHTS</b></p> <p>Welcome the revised statutory definition which in our experience will significantly simplify identification of whether or not a property is a HMO and thus be subject to legislation. We are pleased to note that the legislation in Northern Ireland will also reflect the position in England, Wales and Scotland with respect to the minimum of number of people [i.e. three] required to be living in a property before it can be designated as a HMO. We note the proposed widening of the categories of property to be exempted under the new legislation and would, as stated above, urge the Committee to seek assurance from the Department that appropriate alternative regulation is in place to ensure the standard of exempt accommodation and the health and safety of occupants of these properties is safeguarded.</p> <p><b>SANS SOUCI RESIDENTS ASSOCIATION</b></p> <p><u>Exemptions</u></p> <p>Elsewhere in the UK, universities are excluded from registration requirements, if they comply with a statutorily recognised Code of Practice.</p> <p>The relevant ANUK Code of Practice for student accommodation to which Queen's University subscribes addresses neither:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Anti-social behaviour (ASB); or</li> <li><input type="checkbox"/> Respect for local residents and communities.</li> </ul> <p>SSRA recommends that HMO licensing exemption should only be provided to student accommodation providers who demonstrate compliance with a code of practice which (as</p>	<p>Department welcomes response from HRS. With the introduction of a new definition and associated exceptions it is intended that this will provide clarification and guidance on what is or is not to be classed as an HMO. This will allow councils to better target those high risk properties, focus resources on licensing and enforce appropriate standards in HMOs. Those not considered as HMOs will apply where there is some other form of statutory regulation which is acceptable to the Department. The Department will provide further clarification in subordinate regulations with guidance for councils on interpretation of the new requirements</p> <p>If the accommodation is identified as a HMO council inspectors will ensure the house meets the required standards to be licensed to operate as an HMO.</p> <p>The Bill provides for exclusions from the licensing requirement which follow those in other jurisdictions, where it is accepted that certain shared houses do not need to be regulated. Those not considered as HMOs will apply where there is some other form of statutory regulation which is acceptable to the Department, or where, because of the purpose to which the HMO is put, the associated risk to its occupants is reduced to a level where regulation is not needed, for example, because the owner lives in the property. In undertaking the Fundamental</p>	
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<p>well as other required standards and requirements) has in place an effective and proven commitment to supporting and enhancing local community, as well as effective disciplinary procedures for addressing anti-social behaviour. Exemptions should be regularly reviewed. The experience of local residents should be a relevant factor.</p> <p><b>COLLEGE PARK RESIDENTS ASSOCIATION</b></p> <p>Cannot understand why the legislation only allows for HMOs to be defined as people not related to each other. In our experience, in particular in regard to new communities, you could have 20 related to each other (brothers, sisters and families, grandparents etc) with no fire escape and living in unsafe conditions.</p> <p>It appears that a new definition is proposed where a HMO licence will not be required for a property defined as a single household with 3 or less residents, we believe this will encourage landlords to develop properties in this way so that they can escape overall HMO registration. It would enable them to opt out of safety requirements and would also allow them to evade inserting any clause to deal with tenants anti social behaviour. Why is this arbitrary number set?</p> <p><b>SUPPORTING COMMUNITIES NI</b></p>	<p>Review of HMO regulation the Department took account of the 2005 judicial review, which criticised the current definition for starting at too low a point and bringing into regulation properties where increased risks do not warrant it.</p> <p>The Department do not agree with this assumption. A Departmental review of HMO legislation concluded that neither the definition nor the scheme of regulation was fit for purpose. The new definition is also similar to that used successfully in Scotland and will allow councils to better target those high risk properties, focus resources on licensing and enforce appropriate standards in HMOs. In 2005 a Judicial Review was also critical of the current definition because, inter alia, it brought into HMO regulation, houses where such interference is not warranted. As a direct result of the judgment, in 2010 the Housing (Amendment) Act (NI) 2010 amended the definition of “family” to include aunt and uncle. The Department will provide further clarification and guidance.</p> <p>Department have made note of this comment.</p>	
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<p>Concur with the definition of a House in Multiple Occupation as stipulated in the Bill.</p> <p><b>NUS-USI</b></p> <p>Definition of an HMO should stay as it currently is. We would be worried that a significant number of houses currently defined as HMOs might not retain this definition and might not then be covered by the health, safety and accommodation standards set out within this Bill. We would also be worried that some houses that are currently HMOs, with flats inside may not be defined as HMOs in the future, and we do not wish this to happen either, because this might mean less accommodation having to meet HMO safety standards.</p> <p><u>Exemptions</u> Believe that all student accommodation, whether owned by a university or not, should be considered houses in multiple occupation to ensure that all this accommodation has to meet the safety standards set for HMOs. Housing Executive/Housing Association property should also be required to meet the safety standards.</p> <p><b>LANDLORDS' ASSOCIATION NI</b></p> <p>There has been a change in the definition of an HMO so that properties which are divided into self-contained flats of one or two bedrooms will no longer be considered to be an HMO property. This has the following consequences.</p>	<p>As above</p> <p>If a 3 storey house, has been converted into separate self-contained flats, each one is a separate dwelling and therefore a "house" in its own right. It is only an HMO if the occupant numbers and relationships condition is met in respect of individual flats. Even though councils will not have statutory responsibility for fire safety under licensing they can still refuse a licence if fire safety is not up to standard.</p> <p>As above the Judicial Review was brought against the HMO registration scheme in 2005. The findings of this review stated that the definition was too wide and brought into HMO regulation houses and buildings that did not require such treatment. In its finding the review recommended that, among</p>	
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<p>(a) These properties will not benefit from the Health and Safety conditions attached to HMO's as they are presently. You could therefore have a converted or new build building built or divided into any number of one and two bedroom flats which will not be inspected by HMO Staff or Licenced for this purpose.</p> <p>(b) These flats can be rented without reference to the planning conditions attached to registerable HMO's, as they shall no longer be considered as HMO's.</p> <p>(c) Family Homes can be converted into as many one and two bedroom flats as normal planning rules will allow and likely will destroy existing communities of family homes and lead to the growth of what are effectively HMO's by stealth.</p> <p><b>COVENANTER RESIDENTIAL ASSOCIATION LTD</b></p>	<p>other things, the definition be refined to restrict its application to "certain categories of HMOs". The Fundamental review of HMO regulation carried out in 2012 took account of the findings of the Judicial review when drafting the new definition. Hence under the new Bill a building will only be an HMO when it is occupied by 3 or more persons as their only or main residence/or 2 or more households. This definition will allow councils to better target those high risk properties, focus resources on licensing and enforce appropriate standards in HMOs.</p> <p>(a) Under the new Licensing scheme a HMO licence will only be required for those properties compatible with the definition. Any properties no longer recognised as HMOs will continue to be subject to Health and Safety standards and conditions under the Private Tenancies Order 2006 and the wider Private Sector Review.</p> <p>(b) These flats will have to have received planning permission whether for new build or converted (i.e. change of use under classes order). They will also have to be inspected by Building Control following construction/conversion.</p> <p>It is possible for family homes to be converted into as many as 1 +2 bedroom flats as normal planning rules allow. However these changes will come at considerable expense with each converted flat having to have a self contained toilet, washing facilities and food preparation facilities in order to avoid HMO licensing. If a landlord decides to go to this expense he will have to obtain planning permission and pass building control inspection. The Department is aware of no evidence to substantiate the claim that this will allow the creation of HMOs by stealth.</p>	
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<p>welcomes the proposal contained in Clause 1 and Schedule 1 to the Bill which would have the effect of exempting HMOs managed by registered Housing Associations from the licencing requirements. This will reduce the administrative burden faced by the Association.</p> <p><b>NIFHA</b></p> <p>Schedule 1 of the Bill contains details of properties that will not be classed as HMOs and this includes buildings controlled by registered housing associations. NIFHA supports this exemption of housing association properties, as it recognises the greater regulatory requirements placed on properties owned and operated by our members.</p> <p><b>QUB</b></p> <p>Buildings occupied by full time students and managed by an educational establishment are not considered Houses in Multiple Occupation. In supporting this clause, it is recognised that this is the approach used for PBMSA in England and Wales, and therefore aligns the approach for this type of accommodation within the sector.</p> <p><b>MR PAUL AHERN - EX NIHE HMO MANAGER (COLERAINE RO)</b></p> <p>Converted houses are no longer regarded as HMOs, only individual flats within the overall house will be treated as a HMO if that flat is occupied by 3 persons from more than 2 families. This removes a significant number of previously regulated properties out of regulation and I have significant concerns regarding fire safety and overcrowding in such converted houses.</p>	<p>Department welcomes this comment.</p> <p>Comment noted. Response given at P6 &amp; P7</p> <p>Comment noted. Response given at P6 &amp; P7</p> <p>If a 3 storey house has been converted into separate self-contained flats, each one is a separate dwelling and therefore a "house" in its own right. It is only an HMO if the occupant numbers and relationships condition is met in respect of individual flats. Even though councils will not have statutory responsibility for fire safety under licensing they can still refuse a licence if fire safety is not up to standard.</p>	
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<p>(Submission contains examples related to fire safety and overcrowding.)</p> <p><u>Exemptions</u></p> <p>Serious concerns regarding exempting Housing Association properties from licensing, in the past 2½ years the Housing Executive have served in the region of 95 statutory notices on Housing Associations primarily in relation to providing and maintaining adequate fire safety measures. My concern is particularly acute as Housing Associations provide the bulk of supported living accommodation in Northern Ireland and such properties are occupied by some of the most vulnerable members of society.</p>	<p>Under existing legislation housing association properties are regulated under the HMO Registration Scheme and are also overseen by various regulatory bodies including the DSD, Supporting people and the Regulation and Quality Improvement Authority (RQIA). The Housing Association Guide contains a comprehensive group of standards for Housing Association dwellings in terms of both their physical condition and tenancy management. One set of standards applies to general needs housing and another to houses where supported housing funding is in place, these standards sit outside our regime. In the Association Guide it details that the housing associations are responsible for the fitness of their stock.</p> <p>The support services provided by them or on their behalf are regulated by DHSSPS the Domiciliary Care Agencies Regulations (NI) 2007 and in the Domiciliary Care Agencies Minimum Standards Aug 2011. The Regulation and Quality Improvement Authority (RQIA) is empowered under The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 to inspect domiciliary care agencies. A minimum of one inspection per year is required.</p> <p>To note the Department has also taken account of the infringement to Human Rights under Article 1 enjoyment of property and Article 8 respect for a private and family life and the considerable expenditure imposed on those owner occupiers requiring them to regulate their properties. The Department further considers an owner as head of household living in a property reduces the level of risk.</p>	
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	<p>Note response to NIHE figures P3.</p> <p>With the introduction of a new definition and associated exceptions it is intended that this will provide clarification and guidance on what is or is not to be classed as an HMO. This will allow councils to better target those high risk properties, focus resources on licensing and enforce appropriate standards in HMOs. Those not considered as HMOs will apply where there is some other form of statutory regulation which is acceptable to the Department. The Department will provide further clarification in subordinate regulations with guidance for councils on interpretation of the new requirements</p>	

Clause 2	Definition of living accommodation
<b>Explanation</b>	<p>Clause 2 defines “living accommodation” for the purposes of clause 1. A building, or part of a building, is living accommodation if (i) 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.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b> welcome the definition within 2(5) pertaining to living accommodation however it is concerned about the application to common parts of self contained flats which are in mixed tenure. CEHOG would welcome some clarity around this issue.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council</p>	<p>Note response given on P1 the Department will provide guidance to assist councils. Where there is a HMO identified in a block of flats a risk assessment will be carried out by a mix of council and fire inspections to ensure health and safety aspects in the access areas for means of escape and obstruction to the accommodation.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Derry City and Strabane District Council  Fermanagh and Omagh District Council  Lisburn and Castlereagh City Council  Mid and East Antrim Borough Council  Newry Mourne and Down District Council  NILGA  Belfast City Council  Mid-Ulster District Council Environmental Health Section</p> <p><b>SUPPORTING COMMUNITIES NI</b>  Concur with the definition of a House in Multiple Occupation as stipulated in the Bill.</p>	<p>Comment noted.</p>	

Clause 3	Cases where person is treated as occupying accommodation as only or main residence
<p><b>Explanation</b></p>	<p>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.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View

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<p><b>CEHOG</b></p> <p>request that further guidance is provided in relation to seasonal workers or workers brought in for a contract in a factory for example a 3 month period.</p> <p>Would welcome further clarity within the regulations, including any specification of a duration of time.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council  Causeway Coast and Glens Borough Council  Derry City and Strabane District Council  Fermanagh and Omagh District Council  Lisburn and Castlereagh City Council  Mid and East Antrim Borough Council  Newry Mourne and Down District Council  NILGA  Belfast City Council  Mid-Ulster District Council Environmental Health Section</p> <p><b>HOUSING RIGHTS</b></p> <p>Would welcome further clarification of this Clause (and its relationship to Clause 1) as in our view there is potential ambiguity regarding the position of hostels for homeless persons provided by, for example, a Housing Association but managed by a voluntary organisation. Such temporary accommodation is routinely regarded as high risk given the transient status and 'chaotic' lifestyles experienced by many occupants. Housing Rights is unclear, as it is</p>	<p>The Department agrees to an amendment which will include reference to seasonal and migrant workers who will be treated as occupying the accommodation as their only and main residence for their duration of the work placement and this type of accommodation will be treated the same as general HMOs. The Gangmasters Licensing Authority has also confirmed that they will check if the HMO is licensed as accommodation should adhere to HMO standards.</p> <p>The HMO Bill states that any building managed or controlled by an HMO is excluded from the definition and this would include hostels for the homeless etc. However, the Department take the point made by HRS that these high risk properties may be better served if they were to fall within HMO regulations. The Department is giving further consideration to removing the exclusion where a Housing Association property is managed by a voluntary</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>currently drafted, whether or not the intention is that such properties would be exempt or included in the legislation.</p> <p><b>SUPPORTING COMMUNITIES NI</b></p> <p>The Bill proposes that domestic violence refuges are to be included in the definition of an HMO, citing that those residing there are to be treated as occupying the accommodation as their only or main residence.</p> <p>this is also the case for residents occupying hostel accommodation and for this reason buildings owned by public sector bodies, such as the Housing Executive, Housing Associations or religious communities should not be excluded from the requirement to register as an HMO.</p> <p><b>CIH NORTHERN IRELAND</b></p> <p>Supports the retention of the content under subsection three given students' overrepresentation in HMOs in some areas of Northern Ireland; this deals with the question as to whether they occupy the accommodation as their only or main residence when residing only during term time.</p> <p>A similar definition for migrant and seasonal workers is noticeably absent. While we appreciate that they can be covered through the regulations, we believe that it is of fundamental importance to cover them in the primary</p>	<p>or other body. For clarification it should be noted that the reference to refuges in Clause 3 is only as an example of a situation where a person may be legally registered somewhere else (i.e. their home) but it is not reasonable for them to live there so they are treated as occupying the refuge as their only or main residence.</p> <p>Comment noted</p> <p>Department notes the comment and after consideration agree an amendment should include reference to seasonal and migrant workers who will be treated as occupying the accommodation as their only and main residence and accommodation will be treated as a general HMO.</p>	



Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>legislation; migrant workers are likely to live in areas with a high HMO concentration and the number of migrant workers residing in HMOs rose over the four years to 2013 CIH Northern Ireland recommends that the below be incorporated as a subsection under section three:</p> <p>A person who is</p> <p>(a) a migrant worker or a seasonal worker—</p> <p>(i) whose occupation of the building or part is made partly in consideration of his employment within the United Kingdom, whether or not other charges are payable in respect of that occupation; and</p> <p>(ii) where the building or part is provided by, or on behalf of, his employer or an agent or employee of his employer; or</p> <p>(b) an asylum seeker or a dependent of an asylum seeker who has been provided with accommodation under section 95 of the Immigration and Asylum Act 1999 and which is funded partly or wholly by the National Asylum Support Service; or</p> <p>(c) a failed asylum seeker or a dependent of a failed asylum seeker who has been provided with accommodation under Regulation 3 of the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005 is to be treated as occupying that accommodation as the person's only or main residence.</p> <p><b>NICEM</b></p> <p>Clause 3 - does not provide for cases where the person is a migrant or seasonal worker, as is covered under Regulation 5 of the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 and under equivalent</p>	<p>Department notes the comment and after consideration agree an amendment should include reference to seasonal and migrant workers who will be treated as occupying the accommodation as their only and main residence and accommodation will be treated as a general HMO.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Regulations in Wales.</p> <p>It is recommended that Clause 3 of the Bill be amended to include a Clause 3(3a), reading:</p> <p>'3(3a) A person is to be treated as occupying a building or part of a building as his only or main residence for the purposes of Section 3 of the Act if he is—</p> <p>(a) a migrant worker or a seasonal worker—</p> <p>(i) whose occupation of the building or part is made partly in consideration of his employment within the United Kingdom, whether or not other charges are payable in respect of that occupation; and</p> <p>(ii) where the building or part is provided by, or on behalf of, his employer or an agent or employee of his employer; or</p> <p>(b) an asylum seeker or a dependent of an asylum seeker who has been provided with accommodation under section 95 of the Immigration and Asylum Act 1999 and which is funded partly or wholly by the National Asylum Support Service; or</p> <p>(c) a failed asylum seeker or a dependent of a failed asylum seeker who has been provided with accommodation under Regulation 3 of the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005'</p> <p><b>NUS –USI</b></p> <p>Propose that this provision be amended to include part-time</p>	<p>Disagree with request as it would be more difficult to prove that the person is living in the accommodation as their only or main residence if they are studying part-time. Scotland have taken the same stance.</p> <p>Department welcomes agreement on this point.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>further and higher education students.</p> <p><b>QUB</b></p> <p>The University is supportive of Clause 3.2 which defines the term-time address of a full-time FE or HE student as being their main residence.</p>		

Clause 4	Persons who are members of the same household
<p><b>Explanation</b></p>	<p>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”.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p> <p>welcome this definition of ‘same household’</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council  Causeway Coast and Glens Borough Council  Derry City and Strabane District Council  Fermanagh and Omagh District Council  Lisburn and Castlereagh City Council  Mid and East Antrim Borough Council</p>	<p>Department welcomes this comment.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Newry Mourne and Down District Council NILGA Belfast City Council Mid-Ulster District Council Environmental Health Section</p> <p><b>NORTHERN IRELAND FIRE AND RESCUE SERVICE</b></p> <p>Would like the Department to consider including ‘smoke detectors’ as one of the “basic amenities” to be incorporated into the minimum expectation of living accommodation in a building or part of a building.</p> <p><b>CIH NORTHERN IRELAND</b></p> <p>See clause 88</p> <p><b>HOUSING RIGHTS</b></p> <p>Welcome the inclusion of carers and domestic help as recommended in our response to the DSD consultation paper of 2012.</p> <p><b>MR PAUL AHERN - EX NIHE HMO MANAGER (COLERAINE RO)</b></p> <p>The definition of same household/family has been significantly expanded to include cousin, see Clause 88(3) (b) - “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin.</p>	<p>Clause 13 (3) refers The Department will make regulations to include the minimum standards which must be met for accommodation to be regarded as suitable for occupation. The Department has carried forward current requirements in the management regulations which will deal with areas such as utilities and certain management conditions additional requirements will include smoke detectors, alarms, carbon monoxide detectors etc</p> <p>Comment noted</p> <p>Comment noted</p> <p>Existing legislation has resulted in many houses being potentially HMOs. As a result the Department researched best practice in other jurisdictions and included cousin from the English and Welsh HMO legislation schemes</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Currently it is exceptional difficult to regulate some households (primarily ethnic minorities ) as some unscrupulous owner of properties have the tenants coached into saying the occupants are all members of the same family (the tenants are afraid to say otherwise for fear of losing their home) but by including cousins in the definition this further compounds the difficulty.</p>	<p>with the conclusion that this addition would address all eventualities for a family household in the Bill. The Department has re-examined this clause and now proposes an amendment to exclude cousin from Clause 88 (3) (b) to be treated as a relative in the household makeup as cousins living together may have the same risks as 3 unrelated students sharing. This will reduce the risk of some student HMOs being inappropriately excluded from regulation.</p>	

Clause 5	Notice regarding evidence of household
<p><b>Explanation</b></p>	<p>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.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p> <p>welcomes this provision however it is imperative that guidance is issued by the Department to help clarify as to</p>	<p>The Department will provide comprehensive guidance to assist councils.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>what they deem as acceptable proof.  These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council  Causeway Coast and Glens Borough Council  Derry City and Strabane District Council  Fermanagh and Omagh District Council  Lisburn and Castlereagh City Council  Mid and East Antrim Borough Council  Newry Mourne and Down District Council  NILGA  Belfast City Council  Mid-Ulster District Council Environmental Health Section</p> <p><b>MR PAUL AHERN - EX NIHE HMO MANAGER (COLERAINE RO)</b></p> <p>This is unlikely to ever be used by the council, as the council will need reasonable grounds to suspect the property is occupied by more than 2 households and with the definition of household so wide, in theory is useful but will prove ineffective.</p> <p><b>SUPPORTING COMMUNITIES NI</b></p> <p>What test will be employed by Councils to allow them to form belief that the property is indeed an HMO.?</p> <p>Guidance should ensure consistency of approach across all eleven Councils.</p> <p>Recommend that detailed guidance be provided on what</p>	<p>The Department disagrees with this assumption. With the introduction of a new definition and associated exceptions it is intended that this will provide clarification and guidance on what is or is not to be classed as an HMO. The council may serve a notice to determine if the occupants form no more than two households.</p> <p>The onus will be put on owner, agent and tenants to prove the house should not be licensed as an HMO. Department will provide guidance.</p> <p>The Department will provide comprehensive guidance to assist councils.</p> <p>The Department will provide comprehensive guidance to</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
constitutes 'sufficient evidence' and that this should take into consideration the difficulties that some people from abroad may have in obtaining proof of family relationships.	assist councils.	

Clause 6	Notice regarding continuation of occupation
<b>Explanation</b>	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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p> <p>welcomes this provision however it is imperative that guidance is issued by the Department to help clarify as to what they deem as acceptable proof.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council</p>	Department welcomes responses and will provide guidance to clarify requirements.	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council Mid-Ulster District Council Environmental Health Section</p> <p><b>SUPPORTING COMMUNITIES NI</b></p> <p>Support the introduction and use on 'continuation' notices.</p>	<p>Comment noted</p>	

PART 2: LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Clause 7	Requirement for HMOs to be licensed
<p><b>Explanation</b></p>	<p>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 supplied in a licence.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p> <p>concerned with the use of the word 'every'. ....resource intensive for councils, but would place N.I out of touch with England and Wales where, licensing only applies to the highest risk of HMO's (see more in submission)</p>	<p>Department has ensured an HMO license cannot be determined unless the living accommodation occupied as an HMO has planning permission. The new definition will allow councils to better target those high risk properties, focus resources on licensing and enforce appropriate</p>	



Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>CEHOG would suggest that licensing should be a properly targeted measure....to improve standards in this sector. (It) ....should be undertaken entirely on a risk based approach.</p> <p>For those properties that are currently authorised they could then be transferred across to the new scheme.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council Mid-Ulster District Council Environmental Health Section</p> <p><b>BELFAST CITY COUNCIL</b></p> <p>Welcomes the requirement for all HMO's to be licensed. The 2004 Housing Act introduced mandatory licensing for HMO's that are three or more storeys high and are occupied by five or more people forming at least 2 households. This would have resulted in a very small proportion of dwellings in Belfast that would have required licensing. Many smaller HMO's which are poorly managed would have escaped licensing. In our experience this type of dwelling can be particularly problematic and for this reason we support the inclusion of all HMO's in the mandatory licensing scheme.</p>	<p>standards in HMOs. On and after the introduction of the licensing scheme any properties pending or already registered under the Northern Ireland Housing Executive Registration Scheme will be automatically passported to licensing without payment of further fees for the residue of the registration period. This will be considered as Transitional provisions. In collaboration with the Stakeholder Group the Department will ensure councils are provided with sufficient funding to operate the scheme.</p> <p>The Department carried out research which indicates the key risks are in rented accommodation because there is no head of household. Hence the Department considers it would not be appropriate to apply the same level of regulation because there is not the same level of risk in owner-occupied properties.</p> <p>Department welcomes the support for this proposal and is pleased to note the comments made by BCC regarding the introduction of a licensing scheme.</p> <p>It is the Department's view that HMOs carry an increased risk through the lack of head of household therefore all properties that fit the definition should be required to meet the standards expected regardless of the size of the property. This is more closely aligned with the approach of Scotland as it is felt their situation more closely mirrors our own.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>The City Council understands that a significant number of local authorities in England have had to implement additional or selective licensing schemes to deal with HMO's that were not included in the original mandatory scheme. The Licensing scheme proposed in the Bill will prevent Councils from doing this.</p> <p>The City Council accepts that different types of properties will pose different risks and problems and need to meet different standards. We would suggest that the regulations proposed in Sections 13 with regard to suitability of living accommodation and section 54 (Prescribed Hazard) should recognise this and require different levels of compliance linked to the type of property and the risks and problems it poses.</p> <p><b>NILGA</b></p> <p>NILGA is aware of debate within the local government sector in relation to use of the word 'every'. Some note that this approach would be resource intensive for councils, and would put Northern Ireland out of sync with England and Wales where licensing only applies to the highest risk of HMOs.</p> <p>The 'Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006', has</p>	<p>The need for this additional licensing has been created by the diverse housing stock in England as well as the disparity between the housing scenarios faced in London and the South of England compared to those faced by HMO providers in the North of England. This disparity does not exist to in Northern Ireland and any attempt to instigate a system, whereby certain properties are brought within the legislation on a case by case basis, would be counter-productive and could lead to problems of uniformity of approach across council areas and possible legal challenge due to the subjective nature of the decisions being undertaken.</p> <p>The Department have adopted risk based approach to HMO regulation. The introduction of licensing will bring Northern Ireland into line with other UK jurisdictions. The Bill provides for exceptions from licensing with buildings being specified in Schedule 1 of the Bill. The Department will provide guidance and examples to assist councils.</p> <p>Under the Bill the introduction of mandatory licensing will bring Northern Ireland into line with the rest of the UK who already operate HMO licensing schemes. Department will work with councils to ensure that this function is adequately.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>identified highest risk as, those of 3 storeys or more and occupied by 5 or more persons (who together form 2 or more households). The threshold was set at this level because the risks of fire and escaping from fire are greatest in buildings of 3 or more storeys. In 1997 the Entec report 'Fire Risk in HMOs' concluded: 'the number of occupants influences the risk.</p> <p>Others note that the type of housing available in Northern Ireland, and particularly in the urban areas, is often less than two storeys, often the most problematic housing stock, and that it may be inappropriate to introduce a 'tiering' of approach to licensing of HMOs in this region.</p> <p>There is some evidence that some local authorities in England have had to implement additional or selective licensing schemes to deal with HMO's that were not included in the original mandatory scheme. The Licensing scheme proposed in the Bill would prevent Councils from having to do this.</p> <p>NILGA asserts that should the Committee decide to legislate for what is an enhanced system in Northern Ireland, it must ensure that the Department transfers the appropriate resources to implement such a system.</p> <p><b>CIH NORTHERN IRELAND</b></p> <p>Supports the inclusion of managing agents on a licence in principle ( e.g. for establishing whether an individual agent is a fit and proper person). In practice an HMO landlord may use a number of managing agents over a short period of time which could create bureaucracy for</p>	<p>The Department intends to work collaboratively with councils to set up a stakeholder group consisting of council representatives and Housing Executive officials who will consider the resources required to implement the new regime. Department will work with councils to ensure</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>landlords and administration officers. An ideal solution would be a register of accredited managing agents and a requirement that HMO landlords use such a managing agent. This may be a conversation to be had as part of licensing of the wider private rented sector.</p> <p><b>HOUSING RIGHTS</b></p> <p>Strongly supports the mandatory licensing of HMOs, albeit we recognise there will be cost/resource implications associated with the practical implementation of same. We also welcome the requirement for a HMO owner, manager or agent to ensure such properties are licensed.</p> <p><b>LANDLORDS' ASSOCIATION NI</b></p> <p>An HMO Licence must specify a managing agent if any. What happens if the Landlord needs to change Agents during the term of the licence? If no agent noted on the Licence, how does a Landlord appoint an agent to the Licence? Please see Article 33 which forbids an agent to act unless his name is on the Licence even in a Let Only instruction. At best the Landlord is tied to the existing agent. No allowance appears to have been made for Joint Agencies. This Article, taken together with Article 33 is wholly unworkable and shows little or no understanding of the workings of the residential letting industry.</p> <p><b>QUB</b></p> <p>The University supports of the aim of the Department to enhance HMOs by improving standards and revising the approach to regulation, based on proportionate risk.</p>	<p>that this function is adequately.</p> <p>See above.</p> <p>Where an owner wishes to appoint an agent to act in a management capacity for them in relation to a HMO they must be included on the licence as they will have to undergo the fit and proper person test. Any agent acting in a non management capacity (i.e. a letting agent etc) is not required to be registered on the licence. The detail as to the procedure to change or appoint a new agent, how much will it cost and how long it will take are operational matters and will be discussed and agreed with councils.</p> <p>Department welcomes comments made by QUB and NIFRS.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>NORTHERN IRELAND FIRE AND RESCUE SERVICE</b></p> <p>Raise no objection to the wider use of a licensing scheme being used in the proposed bill.</p>	<p>Department welcomes comments made by QUB and NIFRS.</p>	

Clause 8	Applications for HMO licence
<p><b>Explanation</b></p>	<p>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.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p> <p>1 the set licence fee should be on a cost recovery basis.</p> <p>2 In addition to planning approval, Building Control approval should also be achieved prior to an application being made.</p> <p>3 8(e) the term “Fit for Human habitation” is used. This is a general term unless it is referenced to the Housing Order 1981, as amended by The Housing</p>	<p>The Department is setting up a stakeholder group who will consider these issues prior to the transfer of the HMO function.</p> <p>Section 88 of the Bill relates “ Fit for Human Habitation” to the 1981 order, therefore the use of this term at clauses 8 (e) and clause 23 (c) relate back to the</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Order 1992. As a general term it will be open to various interpretations. This should be changed to “the living accommodation should meet the statutory minimum standard for housing.</p> <p>(The “Fitness Standard” as set out in the Housing Order 1981, as amended by The Housing Order 1992 as the statutory minimum standard of housing is currently being reviewed by the DSD so it would not be appropriate to use the term “fit for human habitation”. Using the term meets the “statutory minimum standard for housing” will make the Bill ‘future proof’ and would not necessitate change should the review result in changing the standard.)</p> <p>4 CEHOG advocate the adoption of the Housing Health and Safety rating system (HHSRS) as a tool to regulate the entire privately rented sector. (position paper accompanies submission)</p> <p>5 All tenures of housing should be required to meet the same statutory minimum standard for housing with additional protection for HMO due to their higher risks.</p> <p><b>These views are replicated in the following submissions:</b></p> <p><b>Antrim and Newtownabbey Borough Council</b>  <b>Causeway Coast and Glens Borough Council</b>  <b>Derry City and Strabane District Council</b>  <b>Fermanagh and Omagh District Council</b>  <b>Lisburn and Castlereagh City Council</b>  <b>Mid and East Antrim Borough Council</b>  <b>Newry Mourne and Down District Council</b>  <b>NILGA</b></p>	<p>definition contained within the Housing (ni) order 1981. The Fitness Standard remains applicable to HMOs notwithstanding this Bill or the department’s review of the standard. Any legislative amendment resulting from this review will capture any necessary consequential amendments.</p> <p>The Department intends to seek public feedback as part of the fitness standard review and welcomes the views of CEHOG on the issue.</p> <p>Department agrees with this comment and has introduced more robust legislation to ensure important management and safety standards before a HMO is licensed to better protect tenants living in higher risk accommodation. This New Bill operated by councils will link HMO regulation with other critical local government functions, such as planning, building control and environmental health.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>BELFAST CITY COUNCIL (CEHOG points 1-4, not point 5)</b>  <b>Mid-Ulster District Council Environmental Health Section</b>  <b>(but <u>not</u> CEHOG point 2)</b></p> <p><b>CIH NORTHERN IRELAND</b></p> <p>Subsection one requires the licence application to be made by the HMO owner and there is no requirement elsewhere in the Bill for an HMO owner to appoint a managing agent. This could present logistical issues if the owner lives in the Republic of Ireland, abroad or otherwise outside the jurisdiction and has no managing agent based in Northern Ireland, especially if corrective action is required. This issue could be addressed by a measure such as requiring owners who live abroad to appoint a local managing agent, or allowing a council to appoint one on their behalf.</p> <p><b>MR PAUL AHERN - EX NIHE HMO MANAGER (COLERAINE RO)</b></p> <p>The current HMO registration scheme requires either the owner (person having control the house) or the manager (person managing the house) to register the property, that person being known as the “specified person” for the purpose of the registration scheme. The proposed limit the responsibly to applying for a license to the owner will prove problematic if the owner lives outside the jurisdiction and avoids licensing.</p> <p><b>HOUSING RIGHTS</b></p> <p>Welcome the provisions set out under this Clause and</p>	<p>Department agrees with this point. Under the new licensing scheme an application for a HMO Licence must specify the details of any managing agent. This managing agent will be required to subject to the same fit and proper person test as the owner and will be held accountable for the physical and management standards under the licensing scheme. Additionally, as part of the licence conditions which will be specified in regulations, where a landlord does not reside in the jurisdiction there will be a requirement for them to appoint a managing agent, operating and based in the jurisdiction, to act on their behalf.</p> <p>See above</p> <p>Department intends to publish a Code of Practice Clause</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>agree with the criteria which the Council will consider prior to granting a licence. Housing Rights believes however that it would be helpful for the Bill to place greater emphasis on tenancy management standards than is currently proposed in the legislation.</p> <p><b>SUPPORTING COMMUNITIES NI</b></p> <p>Support the mandatory licensing of all HMO's and the requirement that applications must be made to the Council in question on the basis provided for in the Bill.</p> <p><b>NICEM</b></p> <p>Clause 8 – refers to the outdated fitness standard, which has been in place since 1919 and was replaced in England and Wales via Regulations arising from the Housing Act 2004.</p> <p>It is recommended that the Bill be amended to introduce a comprehensive system for assessing housing standards, consistent with practice in other parts of the UK and based upon Sections 1-10 of the Housing Act 2004.</p> <p><b>NUS-USI</b></p> <p>Any limit to the number of houses in multiple occupation in any area could lead to significant price inflation</p>	<p>63 which will lay down statutory standards of conduct and practice to be followed with regard to the management standards of HMOs.</p> <p>Comment noted.</p> <p>Section 88 of the Bill relates “ Fit for Human Habitation” to the 1981 order, therefore the use of this term at clauses 8 (e) and clause 23 (c) relate back to the definition contained within the Housing (ni) order 1981. This Bill is focused on the regulation of HMOs and would not be an appropriate vehicle for making changes to the minimum standards required for other forms of housing. The Department is currently reviewing the statutory fitness standard that applies across all housing and is planning to consult on potential changes to that standard.</p> <p>The Department note these concerns however, the Department consider that licensing linked to planning and having to have a licence before you legally operate as a HMO should prevent a holylands situation from happening again with the saturation of HMOs in one locality.</p>	



Clause 9	Breach of planning control
<b>Explanation</b>	Clause 8(2), 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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b> welcomes this link to planning control.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA</p> <p><b>BELFAST CITY COUNCIL</b> ...Building Control approval should also be achieved prior to an application being made. The Council welcomes this link to planning control.</p> <p><b>HOUSING RIGHTS</b> Welcome the link to planning policy, regulation and control.</p>	<p>The Department welcomes response from CEHOG and Housing Rights.</p> <p>The Department will consider this further as they liaise with councils on the guidance and code of practice required for the operation of the licensing scheme.</p>	

Clause 10	Fit and proper persons
<b>Explanation</b>	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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b> concern regarding the language used where some-one has committed an offence rather than having been convicted of committing an offence. Further clarity should be provided around jurisdictions, spent convictions, putting the onus on the applicant to provide any necessary information specified.</p> <p>Additional guidance is required on the provision under 10(5) relating to 'any associate or former associate' has engaged in any of the conduct mentioned.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council</p>	<p>The inclusion of a fit and proper person test means that private landlords will have to meet a certain standard before they can legally rent out property. It is envisaged the test will weed any bad landlords out of the system and improve the standards in HMOs and provide the tenant with extra protection.</p> <p>The Department will work collaboratively with councils to provide guidance and code of practice to assist councils with the operation of the new regime. Department welcomes the views of NIFRS and Housing Rights, Supp Com NI. NUS-USI.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council Mid-Ulster District Council Environmental Health Section</p> <p><b>NORTHERN IRELAND FIRE AND RESCUE SERVICE</b></p> <p>raise no objection to the use of a fit and proper person test being applied to the registered owners of HMOs as outlined in the proposed bill.</p> <p><b>HOUSING RIGHTS</b></p> <p>Support and welcome this Clause, particularly the application of the “fit and proper person” provisions to owners and/or managing agents. The inclusion of subsection 3(e) which will allow further acts to be defined as relevant within the code of practice is also welcome; again we would reiterate our view that this Code should be placed on a statutory basis.</p> <p><b>SUPPORTING COMMUNITIES NI</b></p> <p>Agree that Fit and Proper Test should be applied across all council areas and that the Department provides appropriate guidance and where necessary training to ensure consistency of approach.</p> <p><b>NUS-USI</b> – welcome this clause</p>	<p>Comment noted</p> <p>Comment noted.</p> <p>Department intend to take this forward as they prepare regulations, code of practice and guidance on the Bill.</p> <p>Comment noted</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>LANDLORDS' ASSOCIATION NI</b></p> <p>Concerned with subsections 6 and 7 of this article as it would appear to hold the Landlord responsible for the antisocial behaviour of their tenants and other occupants in the property and indeed in the locality.</p> <p>Girvan J's judgement 14/03/05 Ref GIRC 5216 LANI v. DSD &amp; NIHE when the definition of a Landlord's responsibilities was defined in the Judgement and did not include the locality. A Landlord can only be responsible for the conduct of the tenants named on the tenancy agreement within the curtilage of the Landlord's property.</p>	<p>The Department acknowledge this point with regard to the antisocial behaviour aspect of the fit and proper person test, particularly with respect to the outcome of the 2005 Judicial Review. To be compliant with this case, the Department agrees that this clause should be amended to remove the word "locality". Landlords have also indicated that they are limited in how they can deal with anti-social behaviour from visitors to the HMO. The Department will consider whether there is merit in changing the word in Clause 10 (6) (i) and (ii) from "occupants" to "tenants" as the Department to reflect this.</p> <p>The Department will expect landlords to adopt good practice and agree a tenancy agreement with each tenant which will provide clarity on the expected behaviour of both tenants and visitors. The written agreement should also provide the tenants with other useful information including information on how anti-social behaviour in and around the building will be dealt with. This would help set out the parameters and boundaries for behaviour at the outset and it would make it possible for a manager to consider eviction on grounds of breach of tenancy agreement should problem behaviour arise. The manager should have regard to liaising with affected neighbours, universities, PSNI, environmental health and other bodies</p> <p>The Department will ensure guidance is provided for landlords to abide by management standards and councils will be expected to make occupiers aware of the process of HMO licensing and offer a contact point for them to raise any concerns. The Department's ongoing</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>RICS</b></p> <p>10.—(1) This section sets out the matters which are relevant for deciding whether an owner or managing agent is a fit and proper person for the purposes of this Act.”</p> <p>(e) acted otherwise than in accordance with a code of practice approved under section 63.</p> <p>RICS would highlight that RICS members are already required to adhere to a code of ethics and professional standards. We would further recommend that the Code of Practice referenced under section 63 of the Bill undergoes thorough consultation to ensure it carries weight and is accepted by the sector. We are happy to work with you to support the introduction of any regime and indeed to ensure our regulatory approach is effectively integrated.</p>	<p>Private Sector Review will also explore issues around anti-social behaviour in the wider private rented sector.</p> <p>The Department notes the points made by RICS and confirms that any Code of Practice and Guidance laying down the standards of conduct and practice to be followed with regard to the management of HMOs will be consulted on with the relevant parties.</p>	

Clause 11	Satisfactory management arrangements
<p><b>Explanation</b></p>	<p>Clause 11 outlines the considerations that a council may take into account when deciding whether suitable management arrangements are in place at application stage.</p>



Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>statutory Letting Agent Code of Practice for persons applying to be admitted to the Letting Agent Register).  <a href="http://www.gov.scot/Publications/2015/08/6563/downloads">http://www.gov.scot/Publications/2015/08/6563/downloads</a></p> <p><b>BELFAST HOLYLAND REGENERATION ASSOCIATION</b></p> <p>Object that clause 11 of the Bill stops short of securing landlords responsibility for addressing tenants ASB and for ensuring fair tenancy terms.  Social housing tenancy agreements already include clauses on security of tenure and managing ASB.  There is no obvious reason why HMO landlords should be treated any differently.</p> <p>Propose introducing a paragraph d) to Clause 11. The paragraph would require review of tenancy agreements for unfair terms and ASB, as part of the test for satisfactory management arrangements.</p> <p><b>SANS SOUCI RESIDENTS ASSOCIATION</b></p> <p>Sub section 11(c) should be amended to ensure that "suitable" cannot be inappropriately interpreted in the context of the legislation: "...whether any proposed management structures and funding arrangements are suitable."</p> <p>would read: "...whether any proposed management structures and funding arrangements are suitable and where relevant proven to deliver the licence conditions."</p> <p><b>COLLEGE PARK AVENUE RESIDENTS ASSOCIATION</b></p>	<p>The Department notes the concerns from BHRA (and College Park Residents association below). However, under the Private Tenancies Order, landlords in the Private Rented Sector are encouraged to complete Statement of Tenancy Terms with all tenants which should include issues relating to anti-social behaviour. The Department will consider landlords responsibility for addressing ASB under the private sector review which is ongoing.</p> <p>The Department do not consider an amendment is needed at Clause 11 (c). Clarification will be provided in guidance provided by the department.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Clause 11 of the Bill needs to secure landlords responsibility for addressing tenants ASB through a review of the tenancy agreement governing the landlord / tenant relationship. Any arrangements should be similar to Social housing tenancy agreements which already include clauses on security of tenure and managing ASB. HMO landlords should be subject to the same conditions.</p> <p>We suggest that Managers of properties should be liable for wrong actions as much as the owner of the property living out of the legal jurisdiction.</p>	<p>Response as above.</p> <p>Agreed. The Department notes the comment and will ensure this is clarified in the guidance provided. Managing agents acting for overseas owners will need to be a fit and proper person and be accountable for the management arrangements in the accommodation.</p>	

Clause 12	Overprovision
<b>Explanation</b>	<p>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).</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
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Clause 13	Suitability of living accommodation for multiple occupation
<b>Explanation</b>	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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Stakeholders' Comments on this clause were as follows:</p> <p><b>CEHOG</b></p> <p>1 further guidance should be provided in order to both define and provide clarity around certain terms used throughout this clause, such as 'undue public nuisance', for example would this cover issues around car parking; also terms such as 'type of persons'; 'interior and exterior decoration'</p> <p>2 would welcome the addition of other risk areas to the minimum standards such as falls, risk of fumes etc in line with the HHSRS. Within clause 13(5) there is a notable absence of fire safety and means of escape.</p> <p>3 CEHOG would also see that with the introduction of HMO licensing there is an ideal opportunity to have a formal MOU on a regional basis with the NIFRS.</p> <p><b>These views are replicated in the following submissions:</b></p> <p><b>Antrim and Newtownabbey Borough Council</b>  <b>Causeway Coast and Glens Borough Council</b>  <b>Derry City and Strabane District Council</b></p>	<p>1) Department will provide code of practice and guidance to assist councils.</p> <p>2) The current fitness standard remains applicable to HMOs. As indicated earlier the Department is currently reviewing the current Fitness Standard and intends to seek public feedback during the course of the review.</p> <p>3) Under licensing the Northern Ireland Fire and Rescue Service will have responsibility for fire safety legislation however, the Department will provide guidance for councils which will include fire safety and means of escape. Department agrees a formal MOU or similar arrangement with NIFRS should be put in place and will take this forward with councils as discussions around the transfer progress.</p> <p>Note : Article 48 of the Fire and Rescue Services (NI)</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA</p> <p><b>BELFAST CITY COUNCIL</b> Reiterate CEHOG comments 1,2 and 3 and state</p> <p>The City Council is concerned that Fire Safety measures can no longer be imposed through the proposed licensing regime and that responsibility for monitoring and regulating standards in this sector will rest with the Northern Ireland Fire &amp; Rescue Service. Given the high number of HMO's in Belfast the City Council is concerned that the NIFRS will have sufficient resource available to carry out this role in the city.</p> <p>Fire Safety standards in HMO's falls under the remit of the current registration scheme and in Belfast this work is carried out in partnership with NIFRS, NIHE and the Council's Building Control Service.</p> <p>We would request that the Bill and any future regulation/guidance allow for the Councils and NIFRS to agree regional/local arrangements and protocols around the regulation and enforcement of Fire Safety in HMO's.</p>	<p>order 2006 provides that where a statutory provision provides for the licensing of premises or a person in respect of premises shall be of no effect.</p> <p>The approach for fire safety under the HMO Bill will be to avoid overlapping regimes and duplication by operating a single fire safety regime. Fire safety in NI is principally dealt with through the Fire and Rescue Services (NI) order 2006. Article 48 of the Fire and Rescue Services (NI) order 2006 restricts the extent to which licensing regimes can deal with fire safety. As a consequence general fire safety measures cannot be imposed through the HMO licensing regime by way of licence conditions.</p> <p>However the council has a duty under the HMO Bill to take into account the condition of a living accommodation as well as the safety and security of the persons likely to occupy it – the council should therefore take into account the level of fire safety in the HMO and the extent of the compliance with the Fire and Rescue Services (NI) order 2006. And may if it sees fit, refuse to grant or remove licence on this basis.</p> <p>In practice this means issues of fire safety can be highlighted and addressed at a local level by the HMO inspectors as these same issues relate to the health and safety of the occupants and the Bill provides the council with the powers to deal with these.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>HOUSING RIGHTS</b></p> <p>Believes this clause would be improved if a number of the key management standards [previously listed under Art 78 of the Housing (Northern Ireland) Order 1992] were also explicitly included in this Bill as factors influencing the suitability of accommodation for multiple occupants. (see submission)</p> <p>The provisions of this Clause appear to be based largely on existing fitness standards. (These) Standards will be subsequently revised to reflect the outcome of the ongoing review of fitness standards in Northern Ireland.</p>	<p>The Department will provide guidance for councils which will include fire safety and means of escape. Department considers a formal MOU with NIFRS should be put in place and will take this forward with councils as discussions around the transfer progress.</p> <p>It is envisaged the new protocols for fire safety will mirror as far as possible the current arrangements and the Department does not envisage any increase of work for the NIFRS other than more cohesive working across authorities. The Department is setting up a stakeholder group to examine such issues with the detail to be clarified in a code of practice and guidance to assist councils to operate the scheme.</p> <p>The current Fitness Standard remains applicable to HMOs notwithstanding this Bill or the department's review of the standard. Any legislative amendment resulting from this review will capture any necessary consequential amendments.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Recommend the Department should in determining the new fitness standards have regard to a comprehensive risk assessment tool such as the Housing Health and Safety Rating Scheme.</p> <p><b>LANDLORDS' ASSOCIATION NI</b></p> <p>Surprised by a number of provisions in this Article that lack clear definition. 13(2)(b) and (d) are particularly disturbing. Please examine Article 13 4(b) and 5(g). In the former, the Landlord may meet the standards set down by the Department yet the relevant Council may decide to limit the number of persons entitled to occupy the premises. Further, Article 13, 5(g) will allow an official to determine whether the property is suitably painted internally and externally and to then grant / revoke HMO licences. There is no statement as to the grounds on which these may occur.</p> <p><b>SANS SOUCI RESIDENTS ASSOCIATION</b></p> <p>All permanent homes need living space for basic amenities – rubbish storage and disposal, access, drying clothes, space for children to play, space for planting, space to</p>	<p>Clause 63 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. The primary legislation outlines the wider principles of HMO licensing with much of the detail to be provided in subsequent regulations. Additionally guidance will be provided for both councils and landlords to detail the management standards, roles and responsibilities expected. Whilst the provision in 13(4)(a) may seem to contradict that in (b) this is not the case. The minimum standards will be specified in regulations and will be geared to capture as many HMOs as possible. These standards will be applicable across all HMOs and as such will be tailored to incorporate the majority of occupancy levels (i.e. between 3 and 10).The property may meet the minimum terms under (a) and be suitable for occupation by 6 people however the council may feel it is not suitable for occupation by 15 people which may be what the landlord is proposing.</p> <p>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</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>sit and socialise outdoors.</p> <p>Section 13,14 and all other relevant HMO legislation must be examined to ensure the department and local councils are required to ensure all these parameters are covered, if people living in HMOs are to maintain decent living standards. Otherwise individual tenants and communities are inadequately protected. (more in submission)</p> <p>Section 13 as drafted appears geared to maximum cramming, to the detriment of individual tenants' quality of life, and the character of the local area. Section 13 is inadequate.</p> <p><b>COLLEGE PARK AVENUE RESIDENTS ASSOCIATION</b></p> <p>We object that Paragraph 20(4) of Clause 20 excludes the overprovision test when renewing HMO licenses.</p> <p>We suggest that, in order to redress over provision, the presumption should be in favour of bringing HMOs back into ordinary household accommodation so as to encourage families back into the area and redress the current demographic imbalance.</p>	<p>persons or could be made so by including conditions in the licence. Following an application to be licensed councils will carry out an inspection to confirm the number of tenants that can reside at the property and to make sure it is up to the standard required which will cover essential amenities. Minimum standards for the matters set out in Clause 13(5) are likely to be lengthy and complex, and will require consultation with councils, landlords and other interested parties before being established.</p> <p>The Department explored this point during the review but do not agree this is feasible. During the policy making process this issue of attempting to remove properties from HMO use through this Bill was discussed at length but was ultimately dismissed. If the Department attempted to force a HMO owner to re-classify their property from HMO to normal domestic family use when selling the property we run the risk of infringing the human rights act. Protocol 1 of the Human Rights Act which deals a person's right to Protection of Property (right to the peaceful enjoyment of their possessions). It could be argued that by requiring a HMO landlord to sell a property on as a property for normal family domestic use, thereby potentially de-valuing it significantly, we may be breaching their enjoyment of their possessions Department considers that on and after the introduction of the licensing scheme any properties pending or already registered under the Northern Ireland</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>SUPPORTING COMMUNITIES NI</b></p> <p>Disappointed that the standard of fitness has not been addressed in the proposed Bill and we believe that this may have provided an opportunity to commence that conversation. Believe the current fitness standard used in Northern Ireland is out-dated and warrants consideration with a view to the introduction of a Housing Health and Safety Rating System like that which operates in other parts of the UK.</p> <p><b>NICEM</b></p> <p>Clause 13 – lacks clarity in its requirement that councils consider the ‘type’ of person likely to inhabit the accommodation when determining suitability. The use of this requirement is also inconsistent with the test utilised in England and Wales and generates the potential for unlawful assessments to be undertaken. Assessments undertaken under this provision could conflict with anti-discrimination provisions for protected groups (See submission)</p> <p><b>It is recommended that Clause 13(2)(b) be amended to read:</b>  <b>‘(b) the number of persons likely to occupy it’.</b></p>	<p>Housing Executive’s Registration Scheme will be automatically passported to licensing without payment of further fees for the residue of the registration period.</p> <p>The current fitness standard remains applicable to HMOs. As indicated earlier the Department is currently reviewing the current Fitness Standard and intends to seek public feedback during the course of the review.</p> <p>Department thought it useful for council to be aware and take account of the “type” of people likely to be occupying the property e.g students, older persons. This is particularly relevant to ascertain any special facilities that might be required and whether the accommodation is appropriate to the proposed occupiers’ needs. Department is content to consider changing wording to nature or kind of person if Committee requests. However, the Department have already sought advice from the drafter on this matter and he states there is no material difference between the word type, nature or kind in this context. It is therefore likely that those with reservation about the use of the word type will have similar concerns about the use of these alternatives. Additionally the Department wishes the Committee to note this wording has been adopted from current HMO legislation operating</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
	<p>in Scotland Note this wording has been adopted from current HMO legislation operating in Scotland.</p> <p>As above. It is not envisaged that accepting this amendment will explain the kind or nature of residents likely to be occupying the accommodation if the licence is awarded.</p>	

Clause 14	Licence conditions
<b>Explanation</b>	<p>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.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p> <p>welcomes the provisions within this clause, in particular 14(3)</p>	<p>Department welcomes this comment. Councils will have the power to impose such licence conditions as they think fit which may, for example, require certain standards to be</p>	



Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>query the rationale and intention in relation to 14(4) and (5) particularly in relation to the class of persons occupying or visiting a HMO.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA</p> <p><b>BELFAST CITY COUNCIL</b></p> <p>Councils should have the flexibility to add conditions to address specific concerns with an individual property or an area.</p> <p>The City Council welcomes the inclusion of conditions (as set out in Clause 14) attached to any licence. In particular the proposal to include conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting HMO's.</p> <p>We would support the making of regulations requiring Councils to include conditions as specified in the regulations but ask that this does not prevent Councils from having the flexibility to add conditions to address specific concerns with an individual property or an area.</p>	<p>maintained throughout the period of the licence. As any failure to adhere to the licensing conditions is an offence and can result in the council revoking the licence, this is an important tool to ensure HMO owners adhere to reasonable standards. Department will provide regulations and guidance to assist councils.</p> <p>Note above response applies. Department will provide regulations and guidance to assist councils which will be consulted on.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>HOUSING RIGHTS</b></p> <p>The Committee should reassure itself that , in the drafting of this Clause, comprehensive advice has been obtained by the Department with respect to the judgement in R (Boyle) and Others v Northern Ireland Housing Executive [2005] NI QB 22; March 2005, High Court of Justice in Northern Ireland, Queen’s Bench Division.</p> <p><b>SANS SOUCI RESIDENTS ASSOCIATION</b></p> <p>Section 14 should <b>require</b> the local council to include, in licensing conditions (including licence renewal), legal obligations for tenants, punishable if breached by a fine of up to £5000. Normally these will include reasonable access, care of fixtures and fitting, refuse and fire safety compliance. <b>These conditions should also include</b> respect for neighbours and community, and respect for the landlord’s anti-social behaviour guidelines (which should also be a requirement for the landlord to provide).</p> <p>It should not be an option for a tenant to decline these conditions. <b>(Section14(5) and Sub section 14(6) as drafted appear to constitute a loophole in this regard:</b></p> <p><b>RICS</b></p> <p>14.—(1) An HMO licence may include such conditions as the council considers appropriate for regulating any or all of the following— (f) conditions requiring the owner of the HMO or the</p>	<p>Department welcomes this comment and has taken account of the judgement in this clause.</p> <p>Department does not agree with the proposals. The council may include any conditions it considers appropriate for regulating the management, use and occupation of an HMO. Department will provide regulations and guidance for councils, which will be consulted on, to assist them in considering incorporating conditions in licences granted. Secondary legislation is a more suitable vehicle than primary legislation for setting these out.</p> <p>Above comments apply. Department notes this comment however the operation of the scheme will be at the discretion of councils with the Department carrying out a monitoring role.</p> <p>As above.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>managing agent of it (if any) to attend training courses in relation to any code of practice approved under section 63.</p> <p>RICS would highlight that RICS members are already required to adhere to a code of ethics and professional standards. We would further recommend that the Code of Practice referenced under section 63 of the Bill undergoes thorough consultation to ensure it carries weight and is accepted by the sector. We are happy to work with you to support the introduction of any regime and indeed to ensure our regulatory approach is effectively integrated.</p>	<p>Department has written to all council Chief Executives and asked that they provide key representatives to form a stakeholder group to take forward the transfer of the function. Department intend to work collaboratively with councils to discuss and provide regulations, guidance and code of practice which will assist councils with the new requirements.</p>	

Clause 15	Temporary exemption notice
<p><b>Explanation</b></p>	<p>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.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p>		

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Council officers should be allowed to exercise discretion in (such) exceptional circumstances. However CEHOG would not envisage any such notice should be valid for a period longer than 12 months in totality ie inclusive of any extension as per clause 16.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council  Causeway Coast and Glens Borough Council  Derry City and Strabane District Council  Fermanagh and Omagh District Council  Lisburn and Castlereagh City Council  Mid and East Antrim Borough Council  Newry Mourne and Down District Council  NILGA  Belfast City Council</p>	<p>Department agrees councils will have to use their discretion. Clause 15 refers to a temporary exemption notice having effect for the period of 3 months beginning on the date on which it is served. A further extension if granted would be for such period, not exceeding 3 months, as the council considers appropriate.</p>	

Clause 16	Extension of temporary exemption notice
Explanation	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.



<b>Clause 17</b>	<b>Safety and security requirements</b>
<b>Explanation</b>	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.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>NUS-USI</b> Strongly believes that any legislation of this nature must include provisions to make it mandatory that landlords have to ensure that electrical checks are carried out by a qualified electrician on an annual basis, to ensure the safety of tenants.</p> <p>Crucial that this Bill emphasises as strongly as possible the need for the highest health and safety standards and accommodation standards to be met. A strong message must be sent out by this Bill that landlords who do not adhere to health, safety and accommodation standards will face significant legal recourse.</p> <p>It should be mandatory for all houses in multiple occupation to have adequate provision of smoke alarms and also carbon monoxide alarms in the house. It is essential that government ensures that it is mandatory that these alarms are fitted.</p>	<p>Department welcomes and agrees with NUS-USI comments. Department will make regulations and approve a Code of Practice laying down standards of conduct and practice to be followed regarding the management of HMOs.</p>	

<b>Clause 18</b>	<b>Revocation of temporary exemption notice</b>
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<b>Explanation</b>	<p>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.</p> <p><b>NO COMMENTS RECEIVED</b></p>
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<b>Clause 19</b>	<b>Duration of HMO licence</b>
<b>Explanation</b>	<p>Clause 19 states that an HMO licence lasts for five years, or a shorter period specified in that 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.</p>

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>CEHOG</b> suggest that a standardised duration period is specified.</p> <p>Clarity on the rationale for a non-specified period would be welcomed.</p> <p>Guidance pertaining to specifics in dealing with the commencement of the 3 months period within which CEHOG must make a determination on an application is required. (CEHOG is of the opinion that this 3 month period should only commence once council have received a full application, all required supporting documents and appropriate fee.)</p> <p>Formalisation of a process where an application is deemed as being duly made would also be welcomed.</p> <p>Schedule 2, 15(6) clarity is required on the deemed licence, i.e. is another application fee required after the</p>	<p>The Bill makes provision for a licence to be granted for a maximum period of 5 years and for no less than six months. It is suggested that general practice should be for a 5 year period, with licences of a shorter duration being granted as an exception where the council is satisfied that a justification for a shorter period exists.. There may be some limited circumstances where a council may wish to grant a shorter licence on the basis of the age of key fixtures or fittings. For example, if, at the time of initial inspection, a piece of safety equipment or a key appliance, such as a smoke alarm or a boiler, while perfectly safe, is less than five years away from the end of its normal lifespan, then it might be appropriate to grant a shorter licence. Department will work with councils to provide guidance and clarify fees in all scenarios outlined.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>specified one year period</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council Mid-Ulster District Council Environmental Health Section</p> <p><b>HOUSING RIGHTS</b></p> <p>Give consideration to reducing the duration of a HMO licence from five to three years as is the position in Scotland, given the amount of 'wear and tear' that HMO properties experience compared with other types of accommodation. We also support the introduction of powers for the granting of licences for shorter periods where necessary at Clause 19 (2) (b).</p> <p><b>BELFAST HOLYLAND REGENERATION ASSOCIATION</b></p> <p>Acknowledge that overprovision is tested when a HMO license is applied for but object that Paragraph 20(4) of Clause 20 excludes the overprovision test when renewing HMO licenses. Propose its deletion.</p> <p>This positions is supported by Sans Souci Residents</p>	<p>Department feels that the maximum duration for a licence should remain at 5 years.</p> <p>The Department explored this point during the review and do not agree this request is feasible. Department considers that on and after the introduction of the licensing scheme any properties pending or already registered under the Northern Ireland Housing Executive's Registration Scheme will be automatically passported to</p>	



Summary of Comments and Proposed Amendments	Departmental Response	Committee View
Association	licensing without payment of further fees for the residue of the registration period.	

Clause 20	Renewal of licence
Explanation	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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>QUB</b></p> <p>While the University has no concerns in relation to the clauses in principle, as occupants of the properties may be students studying at the University, in the event that an HMO property is sold and/or a licence not renewed, what is the impact on, or protection afforded to, a tenant with a current tenancy agreement?</p>	<p>The existing protections offered to a tenant under the Rent Order, Private Tenancies (NI) Order 2006 and associated guidance will still be applicable to tenants under the HMO Bill. If a landlord wishes to end a tenancy before the specified term they must issue a Notice to Quit. If the tenant refuses to leave, the landlord will have to obtain a court order and have this enforced through the Enforcement of Judgement Office in order to force the tenant to leave.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View

Clause 21	Application to renew: effect on existing licence	
<b>Explanation</b>	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.  <b>NO COMMENTS RECEIVED</b>	

Clause 22	Variation of licences	
<b>Explanation</b>	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.	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<b>CEHOG</b>  There should be a fee payable on the application to cover costs incurred by CEHOG. Further that a fit and proper person test should apply in terms of any proposed changes to management agent.  <b>These views are replicated in the following submissions:</b> <b>Antrim and Newtownabbey Borough Council</b> <b>Causeway Coast and Glens Borough Council</b>	Department notes this comment and intends to discuss this further with councils as we progress the transfer of the function. Department agrees that a fit and proper person test will apply to proposed changes to the management agent.	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Derry City and Strabane District Council  Fermanagh and Omagh District Council  Lisburn and Castlereagh City Council  Mid and East Antrim Borough Council  Newry Mourne and Down District Council  NILGA  Belfast City Council  Mid-Ulster District Council Environmental Health Section</p>		

Clause 23	Revocation of licences
<p><b>Explanation</b></p>	<p>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.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b> welcomes the power to revoke a licence, however there is a need for guidance in this matter. There should also be a mechanism for bringing to CEHOG any matters, including anti-social behaviour, change in conditions etc that may necessitate any revocation.</p> <p>These views are replicated in the following submissions:  Antrim and Newtownabbey Borough Council  Causeway Coast and Glens Borough Council  Derry City and Strabane District Council</p>	<p>Department will collaborate with councils and guidance will be provided</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA</p> <p><b>HOUSING RIGHTS</b> Recommend consult with key stakeholders to consider the level of assistance which could be provided in relation to rehousing options for those individuals unable to remain in a HMO in such circumstances.</p>	<p>The Housing Executive can provide help and advice as part of their homelessness strategy for housing options. The Department is setting up a Stakeholder Group who will work collaboratively to agree the protocols for such issues.</p>	

Clause 24	Variation and revocation: procedure
<p><b>Explanation</b></p>	<p>Clause 24 introduces Schedule 4, which makes provision about the procedure for varying or revoking a licence.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b> guidance should be provided in order to provide clarity, thus inform any documented procedure to deal with the variation and revocation of a licence in line with</p>	<p>As above. Department will provide guidance to assist councils</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Schedule 4.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council  Causeway Coast and Glens Borough Council  Derry City and Strabane District Council  Fermanagh and Omagh District Council  Lisburn and Castlereagh City Council  Mid and East Antrim Borough Council  Newry Mourne and Down District Council  NILGA  Belfast City Council</p>		

Clause 25	Restriction on applications
<p><b>Explanation</b></p>	<p>Clause 25 prevents the council from considering an application from certain applicants. 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.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>HOUSING RIGHTS</b></p>		

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>It would be helpful to consider further the mechanisms which would be necessary to ensure consistency of decisions will be achieved [and indeed how such information will be shared] in practice across all 11 councils e.g. where a landlord owns multiple properties in a number of council areas, and has been held not to be a fit and proper person in one council area.</p>	<p>The new licensing scheme will be subject to department approval with future monitoring arrangements for HMOs to be discussed and agreed with councils. It is envisaged this should capture good practice to ensure consistency throughout the operation of the new regime.</p>	

Clause 26	Joint licence holders
<p><b>Explanation</b></p>	<p>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.</p> <p><b>NO COMMENTS RECEIVED</b></p>

Clause 27	Surrender of HMO licence
<p><b>Explanation</b></p>	<p>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.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p> <p>there must be a mechanism to prohibit a management company walking away from their obligations.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council  Causeway Coast and Glens Borough Council  Derry City and Strabane District Council  Fermanagh and Omagh District Council  Lisburn and Castlereagh City Council  Mid and East Antrim Borough Council  Newry Mourne and Down District Council  NILGA  Belfast City Council  Mid-Ulster District Council Environmental Health Section</p>	<p>There may be a number of reasons for a HMO licence being surrendered. Councils will be expected to provide reasons as part of their monitoring returns. Department will provide guidance and councils will be expected to follow up on any issues that may warrant further investigation as noted in comment from CEHOG.</p>	

Clause 28	Change of ownership: effect on licence
Explanation	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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b> notes the provisions within this clause, in particular that a new application must be made which would be subjected to the appropriate application fee.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council</p> <p><b>CIH NORTHERN IRELAND</b></p> <p>Believes that a licence ceasing on the date of a transfer of ownership is too strict. While tenancies are protected under the Bill as proposed, a ceased licence could threaten security for tenants whose lease expires around the same time as a transfer of ownership, as well as creating logistical issues for landlords. We suggest that in the case of transfer of ownership, licences should cease to have effect a reasonable period of time after the date of transfer. This would allow the new owner an appropriate window to apply for a licence, while also avoiding a scenario where councils may otherwise have to take costly punitive action for what may</p>	<p>In this scenario Clause 28 proposes that a new owner will have to make a new application and pay a licensing fee. Licences are not transferable. When the licence holder of an HMO either sells the HMO or ceases to be the most appropriate person to hold the licence, the new manager will need to apply for a new licence. In addition, persons controlling or managing several HMOs must have a separate licence for each building.</p> <p>Department notes this comment and agrees with the point raised by CEHOG and will give consideration to allow a reasonable timescale for the new owner to obtain a licence.</p>	



Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>be a reasonable delay. Licensing requirements could also be flagged up at conveyancing stage to ensure a quicker licensing turnaround time.</p> <p><b>LANDLORDS ASSOCIATION NI</b></p> <p>(The clause) is wholly unworkable, as at the date of sale the HMO licence becomes null and void and the new owner will not have had any time whatsoever to obtain a new licence.</p> <p>There needs to be a bridging period of perhaps six months for the new owner to obtain their licence. There is no reason why the new owner cannot be simply registered immediately on the existing licence subject to a fit and proper person test. In all transfer cases the Council will get paid twice for the unexpired period on the vendors licence. A new licence will even have to be sought for a transfer between spouses.</p> <p><b>MR PAUL AHERN - EX NIHE HMO MANAGER (COLERAINE RO)</b></p> <p>Currently the HMO registration transfers to the new owner provided that person is a fit &amp; proper person, the proposal that the licence ceases would need to be accompanied by a provision in accordance with Clause 84(d) that the fees linked to the unexpired portion of the licence is refunded.</p>	<p>Clause 28 proposes that a new owner will have to make a new application and pay a licensing fee as licences are not transferable. When the licence holder of an HMO either sells the HMO or ceases to be the most appropriate person to hold the licence, the new manager will need to apply for a new licence. In addition, persons controlling or managing several HMOs must have a separate licence for each building. The Department will give consideration to allow a reasonable timescale for the new owner to obtain a licence. The Department accept that more detail may need to be included to allow the flexibility for the licence to be awarded during a change of ownership, which is a complicated process. Although the detail of this amendment has yet to be finalised it is proposed that this clause will accommodate a provision similar to that in Clause 29 whereby a period is included to provide a transition between a previous licensee's interest in a HMO ending and a new licence being awarded to a new owner.</p> <p>As this is an operational matter the Department intend taking this forward with councils as part of stakeholder engagement.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>QUB</b></p> <p>While the University has no concerns in relation to the clauses in principle, as occupants of the properties may be students studying at the University, in the event that an HMO property is sold and/or a licence not renewed, what is the impact on, or protection afforded to, a tenant with a current tenancy agreement?</p> <p><b>RICS</b></p> <p>A purchaser will require some certainty of continuity of the HMO status. RICS would suggest that that the proposal requires the new owner to provide his/her details within 14 days of the date of transfer and the certificate amended accordingly if found to be satisfactory. This maintains the license and status of the HMO, including the original renewal date and timeline of checks to be carried out.</p>	<p>Councils will be expected to make occupiers aware of the process of HMO licensing and to offer a contact point to raise any concerns. The Housing Executive can also provide help and advice as part of their homelessness strategy. The Department is setting up a Stakeholder Group who will work collaboratively to agree the protocols for such issues.</p> <p>As indicated above the Department is giving further consideration to the timescales for the new owner to obtain a licence.</p>	

Clause 29	Death of sole licence holder: effect on licence
Explanation	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.



Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>On the death of the sole licence holder and after the expiry of the 3 months period provision a provision in accordance with Clause 84(d) that the fees linked to the unexpired portion of the licence is refunded to the beneficiary of the license holder's estate.</p>	<p>Department will collaborate with councils and discuss the feasibility to refund in such scenarios.</p>	

PART 3: ENFORCEMENT OF LICENSING REQUIREMENTS

Clause 30	Unlicensed HMO
<b>Explanation</b>	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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p> <p>notes the provisions within this clause and welcome the inclusion of agent responsibility. Council need for guidance on terms within the clause to include 'reasonable excuse' subject to clause 34 and the information required as proof.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council Mid-Ulster District Council Environmental Health Section</p>	<p>Department will provide guidance to assist councils.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>LANDLORDS' ASSOCIATION NI</b></p> <p>Agent held liable in the event he permits or facilitates the occupation of an unlicensed HMO. This lacks definition.</p> <p><b>BELFAST HOLYLANDS REGENERATION ASSOC.</b></p> <p>Object that penalties proposed under Clauses 30 - 33 may be disproportionate to the level of mismanagement or non-compliance.</p> <p>Propose an additional level of penalty, under Clauses 30 to 33, to deal with the more extreme cases of mismanagement or non-compliance. The additional level of penalty should include jail terms for extreme cases of mismanagement or non-compliance.</p> <p><b>COLLEGE PARK AVENUE RESIDENTS ASSOCIATION</b></p> <p>One agency only should be charged with implementing legislation and that this agency has an agreed definition of what an HMO is and an understanding that ASB is part of a social clause that needs to be considered within a framework of sustaining a community</p> <p>Landlords need to be made financially liable for dumping</p>	<p>The EFM outlines that this clause creates the offence of allowing an HMO to be occupied in excess of the number of persons authorised on the licence. An owner, agent or other person named in the licence commits an offence if they breach a condition included in a licence. The primary legislation outlines the wider principles of HMO licensing with much of the detail to be provided in subsequent regulations. Additionally guidance will be provided for both councils landlords around standards and roles and responsibilities.</p> <p>Details on Fixed Penalties as an alternative to prosecution are provided at Clauses 64-66 with Clauses 30-40 providing details on prosecution being the other means of enforcement with a maximum fine of £20,000.</p> <p>The Department is responsible for the policy and legislation in relation to the regulation of HMOs. As indicated in an earlier response the onus will be on the landlords to include ASB clause in the tenancy agreement. Department will provide guidance for landlords to abide by management standards and councils will be expected to make occupiers aware of the</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>(at the end of term). They should not have licenses renewed without providing firm evidence that they provide sufficient household bins and dispose of their own rubbish ethically.</p> <p><b>NUS-USI</b> – welcome this clause and emphasise the importance of adequate funding.</p>	<p>process of HMO licensing and the standards expected and to offer a contact point to raise any concerns. Departments ongoing Private Sector Review will also address issues around anti-social behaviour in the private rented sector.</p> <p>Department will work with councils to ensure that this function is adequately.</p>	

Clause 31	Exceeding licensed occupancy or breach of licence conditions
<p><b>Explanation</b></p>	<p>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.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p> <p>notes the provisions within this clause. Council need for guidance on terms within the clause to include 'reasonable excuse' subject to clause 34 and the information required as proof.</p> <p>These views are replicated in the following submissions:</p>	<p>Department will provide guidance to assist councils.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Antrim and Newtownabbey Borough Council            Causeway Coast and Glens Borough Council            Derry City and Strabane District Council            Fermanagh and Omagh District Council            Lisburn and Castlereagh City Council            Mid and East Antrim Borough Council            Newry Mourne and Down District Council            NILGA            Belfast City Council            Mid-Ulster District Council Environmental Health Section</p>		

Clause 32	Untrue claim that HMO is licensed
<p><b>Explanation</b></p>	<p>this clause makes it an offence to claim that an HMO is licensed when it is not.</p> <p><b>NUS-USI WELCOME THIS CLAUSE</b></p>

Clause 33	Agents not named in licence
<p><b>Explanation</b></p>	<p>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.</p> <p><b>NO COMMENTS RECEIVED</b></p>

Clause 34	Reasonable excuse
<p><b>Explanation</b></p>	<p>This section sets out some circumstances in which the owner of an HMO has a reasonable excuse for the purposes of 30(1) and 31(2) and (3).</p>





Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>where a Landlord wants to change agents or appoints an agent where there is none previously appointed. It means that an agent cannot act for any Landlord unless the Agent is named on the licence for that property. What is the procedure to change or appoint a new agent, how much will it cost and how long will it take. This clause has been drafted by person(s) who have little knowledge of the letting industry. This clause is wholly unworkable.</p>	<p>Where an owner wishes to appoint an agent to act in a management capacity for them in relation to a HMO they must be included on the licence as they will have to undergo the fit and proper person test. Any agent acting in a non management capacity (i.e. a letting agent etc) is not required to be registered on the licence. The detail as to the procedure to change or appoint a new agent, how much will it cost and how long will it take are operational matters and will be discussed and agreed with councils.</p> <p>An essential part of considering a licence application is establishing whether the applicant, as well as any agent they wish to act for them in relation to the HMO, is a “fit and proper person”. The Department will provide guidance to assist councils to change or appoint an agent. This may incur a fee. This will be taken forward in collaboration with councils.</p>	

Clause 35	Power to require rectification of breach
<p><b>Explanation</b></p>	<p>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.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>NORTHERN IRELAND FIRE AND RESCUE SERVICE</b></p> <p>Can you clarify if a Local Council inspector comes across a HMO premises and wishes to issue a 'rectification notice' under Art 35; are they able to do this if the matters that require rectifying relate to fire safety measures or does Art 48 of the Fire and Rescue Services (NI) Order 2006 void any ability that the Local Council inspector might have to rectify anything construed as fire safety measures.</p>	<p>Under licensing the Northern Ireland Fire and Rescue Service will have responsibility for fire safety legislation however, the Department will provide guidance for councils which will include fire safety and means of escape. Department considers a formal MOU with NIFRS should be put in place and will take this forward with councils as discussions around the transfer progress. Inspectors can highlight the fire risk but can't enforce as Article 48 of the Fire and Rescue Services (NI) order 2006 provides that where a statutory provision provides for the licensing of premises or a person in respect of premises shall be of no effect.</p>	

Clause 36	Revocation of rectification notice
<p><b>Explanation</b></p>	<p>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.</p> <p><b>NO COMMENTS RECEIVED</b></p>

Clause 37	Failure to comply with rectification notice
<p><b>Explanation</b></p>	<p>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.</p>

	<b>NUS-USI WELCOME THIS CLAUSE</b>
<b>Clause 38</b>	<b>Revocation orders and disqualification orders</b>
<b>Explanation</b>	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.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>CEHOG</b> notes the provisions within this clause. Further consideration is required for specified template for disqualification orders and revocation orders and whether there is a need to prescribe these. If not, then there need to be a mechanism for liaise with the courts service upon the detail required within such orders.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council Mid-Ulster District Council Environmental Health Section</p>	<p>Department will collaborate with councils and provide guidance.</p>	

<b>Clause 39</b>	<b>Revocations and disqualifications:appeals</b>
<b>Explanation</b>	specifies that a person may appeal against a revocation order or disqualification order.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>CEHOG</b></p> <p>notes the provisions within this clause but would ask that clarity be provided on whether temporary exemption matters apply while any appeal is on-going.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council</p>	<p>Department will provide guidance to clarify and support councils.</p>	

<b>Clause 40</b>	<b>Discharge of disqualification orders</b>
<b>Explanation</b>	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.

**NO COMMENTS WERE RECEIVED**

PART 4: STANDARDS OF HOUSING  
CHAPTER 1: OVERCROWDING

<b>Clause 41</b>	<b>Definition of overcrowding</b>
<b>Explanation</b>	Clause 41 defines an HMO as being overcrowded when the number of persons sleeping in it, contravenes either the room standard or the space standard.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>COLLEGE PARK AVENUE RESIDENTS ASSOCIATION</b></p> <p>There is currently overcrowding of families from new communities in small houses due to the current definition of HMOs as applying only to unrelated groups. It is also clear that many landlords who let out to such families are not on the landlord register and this is linked to Part 5-Supplementary, which highlights our proposal to name landlords on the register.</p> <p><b>HOUSING RIGHTS</b></p> <p>Fully supports the revised statutory definition of overcrowding. Furthermore, we endorse the views expressed in the Rugg report that “overcrowding can lead to public health issues”, as there would appear to be compelling evidence to show that this is one of the most significant risk factors in assessing the safety of HMOs.</p>	<p>Department will provide guidance to councils regarding the detail to be provided on the HMO register of landlords.</p> <p>Comments noted.</p>	

<b>Clause 42</b>	<b>The room standard</b>
<b>Explanation</b>	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.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>CEHOG</b> question the rationale behind the increase in age from 12 (as per the Housing Act Room Standard) to 13 years of age.</p> <p>There are differences in various standards for overcrowding (see submission) These differences are not helpful. With HMO tenants at a higher risk than most other tenants in the private rented sector, should they not be offered better protection from overcrowding?</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Mid-Ulster District Council Environmental Health Section</p>	<p>Department has carried forward the current room standards used by the Housing Executive in the Registration Scheme to the new regime. Some confusion has arisen here around the wording. The current room standard used in HMOs in NI is provided for in Article 76 of the Housing (NI) Order 1992 with further detail provided in associated guidance (Part 4 of the HMO Standards document). Both the legislation and guidance refer to “over the age of 12”. This means that if a child in 12 years and 11 months old they are still legally classed as 12. It is only on their 13<sup>th</sup> birthday that they truly become over the age of 12. In this way, by slightly amending the wording, to “aged 13 or over”, the same standard has been maintained and should avoid further confusion in the future.</p> <p>In the Bill the amended HMO definition, will not fundamentally change how overcrowding is dealt with outside of the HMO regime. The new definition will allow regulation to be targeted in a way that is proportionate to the risk presented. For example, a property with 4 people in it is likely to present fewer risks than one in which 20 people occupy. A schedule in the Bill specifies that the</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>BELFAST CITY COUNCIL</b></p> <p>welcomes the inclusion of both the room and space standards for Houses In Multiple Occupation. Would request that consideration be given to extending these standards across the entire private rented sector.</p> <p><b>HOUSING RIGHTS</b></p> <p>(There is an) apparent inconsistency regarding the treatment of children of opposite sexes occupying sleeping accommodation in the same room from the existing room standard contained in Art 76 of the Housing (Northern Ireland) Order 1992. This specifies "... over the age of 12", whereas the Bill as currently drafted at Clause 42 (1) and (1) (a) refers to "... any person aged 13 or over".</p> <p>Housing Rights would not support this change. We also believe there is merit in considering harmonisation with respect to the room standard given in other sectoral guidance such as, for example, the NIHE Housing Selection Scheme or Housing Benefit regulations all of which appear to apply different criteria.</p>	<p>application for a HMO licence includes the number of persons who it is proposed to occupy the accommodation and a subsequent inspection will confirm the maximum number of occupants who can reasonably live there based on the standards expected for the HMO to be licensed. A study undertaken by the Department in 2011 found that, unlike other parts of the UK (particularly London), overcrowding was not a significant issue in Northern Ireland.</p> <p>Comments are currently being sought from Stakeholders whether or not overcrowding is an issue outside of HMOs as part of the Department's ongoing review of the private rented sector.</p> <p>As above</p>	



Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>SUPPORTING COMMUNITIES NI</b></p> <p>The Bill suggests that 2 children over 13 of different sexes sharing a room contravenes the room standard where this was previously 12 years of age. The Bill has increased this but does not provide any rationale for this discrepancy. Furthermore, Housing Executive criteria sets the age at 7 and perhaps a lower age is more appropriate to modern standards.</p> <p><b>NICEM</b></p> <p>Clause 42 – establishes a lower standard for overcrowding than in England and Wales, by setting an age limit of 13 rather than 10 years of age.</p> <p>it is of importance that a high standard be established, in order to ameliorate the disproportionate impact of overcrowding upon BME communities in Northern Ireland and to establish a level of protection that is consistent with other parts of the UK.</p> <p>Recommend:</p> <p>Clause 42(1) be amended to read:  ‘42(1) The room standard is contravened when the number of persons who sleep in the HMO and the number of rooms available as sleeping accommodation are such that any person aged 10 or over must sleep in the same room as:  (a) any person of the opposite sex who is also aged 10 or over, or  (b) a couple (within the meaning given by section 88(3)(a))’</p>	<p>As above</p> <p>As mentioned above the current overcrowding standards for HMOs have been in operation in NI since 1992. These same standards have been replicated in the new HMO Bill. The issue of overcrowding was examined to establish if the existing standards were sufficient or needed strengthened further. The information available shows that overcrowding is not a major issue in NI and that the existing standards, which have operated successfully for over 20 years, were sufficiently robust to not require further amendment.</p>	

<b>Clause 43</b>	<b>The space standard</b>
<b>Explanation</b>	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.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>CEHOG</b> welcomes the formalisation of the current space standards used for HMOs</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council</p>	<p>As stated in previous response. Department will provide for the space standards in subordinate regulations.</p>	

<b>Clause 44 &amp; 45</b>	<b>Overcrowding notices</b>
<b>Explanation</b>	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.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>RICS</b></p> <p>Suggest that the references made which ‘invites the person on whom the notice is served’ to respond within 7 days ‘beginning with the date of service of the notice’ is replaced with ‘beginning with the date of recorded notification’.</p> <p><b>HOUSING RIGHTS</b></p> <p>Welcomes the serving of notice with respect to the sections and subsections within this Clause on persons appearing in a council’s opinion to be the owner or managing agent of a HMO.</p>	<p>The Department notes both comments and intend to take this forward with councils. Notices will be served directly on the person in question whether it be face to face or recorded/special delivery. This will ensure the appropriate notification.</p> <p>Comment noted.</p>	

<b>Clause 46</b>	<b>Requirement as to overcrowding generally.</b>
<b>Explanation</b>	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.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>HOUSING RIGHTS</b></p> <p>the Department should, as a matter of priority, consult with key stakeholders to consider the level of assistance which could be provided in relation to rehousing options for those individuals unable to remain in their home in such circumstances.</p>	<p>Department agrees to take this forward through the stakeholder group.</p>	

<b>Clause 47</b>	<b>Requirement not to permit new residents</b>
<b>Explanation</b>	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”.

	<b>NO COMMENTS WERE RECEIVED</b>
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Clause 48	Notice requiring further information
<b>Explanation</b>	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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>NICEM</b></p> <p>Accept that requiring information from the owner or managing agent of the property is necessary and appropriate.</p> <p>HOWEVER Clauses 48 and 49 - generates potential for tenants, particularly BME tenants, to be unfairly and disproportionately punished for failing to provide information to satisfy and information notice. (See submission for difficulties BME tenant could face as regards supplying information)</p>	<p>Department has drafted the Bill with ECHR to the fore front of the policy. It seeks to improve conditions for all those living in HMOs and therefore will not have any adverse impact on any particular group. Department intend to liaise and collaborate with councils to provide guidance to assist them to operate the scheme. It is envisaged documents will be provided in suitable languages and councils will make use of interpreters where appropriate</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Recommended that Clause 49(1) be amended to read ‘a person identified under Clause 48(3)(a) commits an offence if the person –’.</p> <p><b>CIH NORTHERN IRELAND</b></p> <p>Acknowledges that occupants are a vital source of information with regards to establishing whether an HMO is overcrowded; nevertheless we have some concerns with the implications of this subsection. We believe that councils must take steps to ensure such a notice is received and understood by the HMO occupants and that this duty should take into account literacy issues and visual impairment as well as language. While we understand the need to counteract wilful obstruction of enforcement officers we believe it is inappropriate for occupants’ failure to provide information to constitute a prosecutable offence</p> <p><b>RICS</b></p> <p>Suggest that the references made which ‘invites the person on whom the notice is served’ to respond within 7 days ‘beginning with the date of service of the notice’ is replaced with ‘beginning with the date of recorded notification’.</p>	<p>As above and Department notes point made by CIH which will be taken forward in guidance for councils.</p> <p>Department notes this comment and will take this forward in meetings with councils and include in the guidance.</p>	

<b>Clause 49</b>	<b>Information notice: supplementary provisions</b>
<b>Explanation</b>	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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b> would welcome guidance on the term misleading</p> <p>These views are replicated in the following submissions:  Antrim and Newtownabbey Borough Council  Causeway Coast and Glens Borough Council  Derry City and Strabane District Council  Fermanagh and Omagh District Council  Lisburn and Castlereagh City Council  Mid and East Antrim Borough Council  Newry Mourne and Down District Council  NILGA  Belfast City Council</p> <p><b>NICEM</b>  Accept that requiring information from the owner or managing agent is necessary and appropriate.</p> <p>HOWEVER Clauses 48 and 49 - generates potential for tenants, particularly BME tenants, to be unfairly and disproportionately punished for failing to provide information</p>	<p>Department views this scenario as a person causing an inspector to have the wrong impression. Department will clarify this further in guidance for councils</p> <p>Welcomed as any interference is justifiable and necessary.</p> <p>The Bill provides protection to HMO tenants and their neighbours by making sure accommodation is safe, well managed and of good quality. It has been equality</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>to satisfy and information notice. (See submission for difficulties BME tenant could face as regards supplying information)</p> <p>Recommended that Clause 49(1) be amended to read ‘a person identified under Clause 48(3)(a) commits an offence if the person –’.</p>	<p>screened throughout the process and will not have an adverse impact on any specific group as it seeks to improve standards and conditions for all those living in HMOs. For those groups affected it will only have a positive impact. See response to Clause 48 above.</p>	

CHAPTER 2: SUITABILITY FOR NUMBERS IN OCCUPATION

Clause 50	Suitability notice
<p><b>Explanation</b></p>	<p>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.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p> <p>would ask for guidance required for 50 (3) (b) where falls short of building regulations. Guidance under what circumstances one would evoke such a notice, for example under circumstances where been changes to a property after the licence was issued.</p> <p>These views are replicated in the following submissions:</p>	<p>Department will provide councils with guidance to assist with the operation of the scheme.</p>	



Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council</p> <p><b>HOUSING RIGHTS</b> The Department should, as a matter of priority, consult with key stakeholders to consider the level of assistance which could be provided in relation to rehousing options for those individuals unable to remain in their home in such circumstances.</p> <p><b>CIH NORTHERN IRELAND</b> This will create uncertainty for HMO owners and investors in HMOs, and will create unwanted ambiguity for council officers. We recommend that (4)(b) be removed from the Bill. The minimum standards should be the primary driver for the purpose of this clause and it is sufficient enough to say that the council cannot be satisfied that the HMO is not suitable for occupation by a given number of persons if it fails to meet the standards.</p>	<p>Agreed. This will be taken forward by a Stakeholder group. Department has written to all council Chief Executives and asked that they provide key representatives to form a stakeholder group to take forward the transfer of the function. Department intend to work collaboratively with councils to provide regulations, guidance and code of practice which will assist councils with the new requirements.</p> <p>Whilst the provision in 50(4)(a) may seem to contradict that in (b) this is not the case. The minimum standards will be specified in regulations and will be geared to capture as many HMOs as possible. These standards will be applicable across all HMOs and as such will be tailored to incorporate the majority of occupancy levels (i.e. between 3 and 10).The property may meet the minimum terms under (a) and be suitable for occupation by 6 people however the council may feel it is not suitable for occupation by 15 people which may be what the landlord is proposing.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>NICEM</b>            Clause 50 – allows Councils to issue suitability notices even where accommodations meet the standards set out in future Regulations.</p> <p>This provision has the potential to generate a great deal of uncertainty in terms of what standards landlords must adhere to in maintaining their property. In turn, this places tenants in a vulnerable position where accommodation is unexpectedly subjected to a suitability notice.</p> <p>While it is acknowledged that some flexibility may be required in assessing the suitability of accommodation, this could equally be achieved through the development and revision of comprehensive regulations under Clause 13(3). Recommended that Clause 50(4)(b) be omitted.</p>	As above	

Clause 51	Contents of suitability notice
<b>Explanation</b>	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 resident's occupancy requirement. It may also contain a statement of remedial work.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b>            would ask for guidance in relation to this clause</p>	Department will provide guidance to assist councils.	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council  Causeway Coast and Glens Borough Council  Derry City and Strabane District Council  Fermanagh and Omagh District Council  Lisburn and Castlereagh City Council  Mid and East Antrim Borough Council  Newry Mourne and Down District Council  NILGA  Belfast City Council</p>		

Clause 52	Occupancy requirements
<p><b>Explanation</b></p>	<p>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).</p> <p><b>NO COMMENTS RECEIVED</b></p>

Clause 53	Statement of remedial work
<b>Explanation</b>	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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p> <p>would welcome clarity as to the rationale as to why a notice may not state any fire safety measures.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council</p>	<p>Under licensing the Northern Ireland Fire and Rescue Service will have responsibility for fire safety legislation however, the Department will provide guidance for councils which will include fire safety and means of escape. Department considers a formal MOU with NIFRS should be put in place and will take this forward with councils as discussions around the transfer progress. Inspectors can highlight the fire risk but can't enforce as Article 48 of the Fire and Rescue Services (NI) order 2006 provides that where a statutory provision provides for the licensing of premises or a person in respect of premises shall be of no effect.</p>	





Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>NICEM</b></p> <p>Recommend that the Bill be amended to allow Councils to take emergency remedial action to address hazards that present an ‘imminent risk of serious harm to the health or safety’ of the occupiers, as is provided for in England and Wales under Section 40 of the Housing Act 2004.</p> <p>In the event that a Local Council inspector comes across a HMO premises with dangerous conditions relating to fire safety measures, are they able to deal with these issues under Art 55 or are all aspects of dangerous conditions relating to fire safety measures going to be deferred to NIFRS as per Art 58(7). This could be confusing as many H+S issues could also be construed as Fire Safety issues and visa-versa.</p>	<p>No amendment is required as Part 2 of Schedule 3 already makes provision for a council to carry out work required by a hazard notice.</p> <p>When the HMO Bill is brought into operation issues of fire safety can be highlighted and addressed at a local level by the HMO inspectors as these same issues relate to the health and safety of the occupants and the Bill provides the council with the powers to deal with these.</p> <p>The Department will provide guidance for councils which will include fire safety and means of escape. Department considers a formal MOU with NIFRS should be considered and put in place and will take this forward with councils as discussions around the transfer progress.</p>	

Clause 56	Contents of hazard notice: prohibitions
<b>Explanation</b>	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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b> would request guidance on use and content</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council</p>	Guidance will be provided to councils	



<b>Clause 57</b>	<b>Contents of hazard notice: other matters</b>
<b>Explanation</b>	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.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>CEHOG</b> would think that there is a need the same level of detail in clause 57 as per 56. It is the view of CEHOG that it is most likely that repairs are required in the common parts rather than prohibitions, thus covering owner occupiers also, however the same level of detail is absent from clause 57.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council  Causeway Coast and Glens Borough Council  Derry City and Strabane District Council  Fermanagh and Omagh District Council  Lisburn and Castlereagh City Council  Mid and East Antrim Borough Council  Newry Mourne and Down District Council  NILGA  Belfast City Council  Mid-Ulster District Council Environmental Health Section</p>	<p>It is the view of the Department that the level of detail contained in clause 57 is sufficient.</p>	

Clause 58	Works Requirement		
<b>Explanation</b>	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.		
<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>	
<p><b>CEHOG</b> would welcome clarity as to the absence of fire safety measures again.  Welcomes the option of carrying out works in default as stated in Schedule 3 but Management Orders would be a better solution to situations where the landlord is not in a position to carry out urgent works to a HMO. These orders could be delivered by the NIHE or Housing Associations.</p> <p><b>These views are replicated in the following submissions:</b></p> <p>Antrim and Newtownabbey Borough Council  Causeway Coast and Glens Borough Council  Derry City and Strabane District Council  Fermanagh and Omagh District Council  Lisburn and Castlereagh City Council  Mid and East Antrim Borough Council  Newry Mourne and Down District Council  NILGA  Belfast City Council  Mid-Ulster District Council Environmental Health Section</p>	<p>Fire safety is absent from the primary legislation as it covered, by default, by the Fire and Rescue Services (NI) order 2006. However more detail on fire safety measures will be contained in both the code of practice and other regulations and guidance.</p> <p>The use of management orders was considered but it was felt that the enforcement and regulation tools provide for in the Bill were of an equal or greater standard.</p>		

Clause 59	Approvals as to the use of premises		
<b>Explanation</b>	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. <b>NO COMMENTS RECEIVED</b>
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CHAPTER 4: FURTHER PROVISIONS ABOUT NOTICES UNDER THIS PART

<b>Clause 60</b>	<b>Offences</b>
<b>Explanation</b>	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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b> concerned that fines are currently being issued at levels significantly lower than the fixed penalty level. This matter must be addressed in order to assist Council in discharging their enforcement duties.</p> <p><b>These views are replicated in the following submissions:</b></p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA BELFAST CITY COUNCIL</p>	<p>Noted. Unfortunately this is outside our remit as the Department has no power to direct magistrates when court fines are being set. However, the establishment of levels of fixed penalty notices will provide clarity on the legislature's intent and the seriousness with which it takes breaches in HMO legislation. These levels may act as a guide to courts on the levels of fines to be considered.</p>	

<b>Clause 61</b>	<b>Further provisions</b>
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<b>Explanation</b>	Clause 61 introduces Schedule 5, which makes further provisions about notices under this Part. <b>NO COMMENTS RECEIVED</b>
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PART 5: SUPPLEMENTARY

<b>Clause 62</b>	<b>HMO register</b>
<b>Explanation</b>	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.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>CEHOG</b> having 2 registers in the private rented sector is confusing for both the public and landlords. One single register should cover both sectors and would reduce bureaucracy and administrative costs. CEHOG would also prefer a nominated office instead of Head Office.</p> <p><b>These views are replicated in the following submissions:</b></p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA</p>	<p>Under the Houses in Multiple Occupation (HMO) Registration Scheme a list of registered properties is currently available from the Northern Ireland Housing Executive HMO offices on request. Clause 62 of the Houses in Multiple Occupancy Bill requires each council to keep a similar HMO register which will be publicly available. The Department will take account of the concerns raised and publish guidance to assist councils with the new requirements.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p data-bbox="188 341 857 395">Belfast City Council Mid-Ulster District Council Environmental Health Section</p> <p data-bbox="188 432 465 456"><b>CIH Northern Ireland</b></p> <p data-bbox="188 496 898 826">Supports subsection 6 (exclusion of information likely to jeopardise the safety or welfare of any person). However further to this aim we believe a requirement for a council to make the register available for public inspection (subsection 7) could potentially contradict subsection 6 and we otherwise question the value of making the register available for anyone to view. The people who should have the right to inspect the register are stakeholders such as tenants and relevant public bodies. Any further need to obtain information could be addressed then through appropriate information sharing arrangements.</p> <p data-bbox="188 1046 591 1070"><b>LANDLORDS' ASSOCIATION NI</b></p> <p data-bbox="188 1110 898 1343">HMO Landlords will consider this clause as the most important and contentious article in this bill. They will note that their name appears on a public register available in full to any person on the payment of a small fee. We have no doubt that our names and our property addresses will appear on the internet within weeks of this bill becoming Law. We believe strongly that the safety and security of Landlords, Agents and their families will be compromised.</p>	<p data-bbox="920 440 1615 959">In order to address this issue the Department is considering a number of minor amendments to this clause to remove any ambiguity. The amendments being considered are: 1) The reference to an individual receiving a copy of the register is removed leaving only access to an extract from the register. We would still wish that statutory bodies may have access to the register in its entirety but the wording of this will be a matter for the drafter. 2) Any person making a request for information from the register must have a genuine interest in the property. We would do this by adopting wording similar to that currently in the Regulation Scheme regulations which state "at the request of a person who appears to it to have an interest or a prospective interest in a house, to be resident therein, or to be otherwise sufficiently concerned therewith, disclose to him any entry in the register relating to that house."</p> <p data-bbox="920 1062 1615 1150">The Department understands the concerns raised and agrees the safety and security of landlords and their families is extremely important.</p> <p data-bbox="920 1190 1615 1334">The Department acknowledges both the wider public interest in transparency and the availability of information and the points made by LANI on the importance of the safety and security of landlords and their families. In drafting this Clause the Department were mindful of</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>We believe that Landlord's will be possible victims of extortion by organised crime, vigilante groups and disaffected tenants.</p> <p>In addition, Article 62(5) permits a council to publish whatever additional information on the public register that it deems fit, without any apparent safeguard being in place. We note that some 11 years ago the NIHE attempted to adopt a similar public register of Landlord's which was not pursued after lengthy discussions with the Landlords Association of Northern Ireland and the Police. We see no purpose in this provision other than to lay the Landlord and his agent naked to the public examination and possible intimidation.</p> <p>We would reluctantly accept the concept of a limited access to extracts of the public register, but only to persons who are affected by the HMO in question who must present themselves to council officials and have proof of their interest. A similar concept is presently used by NIHE HMO Unit and is acceptable to Landlords.</p>	<p>Judge Girvan's words in the 2005 Judicial Review where he stated that "a fair balance must be struck between the general interest and the needs of the individuals." The policy intention of this clause was to maintain that balance.</p> <p>The current registration scheme regulations in relation to the register are not much different to the new provisions included in the Bill. The Housing Executive are required to make individual entries in the register available for public inspection and although the registration scheme has landlord name and address details these are not available for public inspection. Clause 62 of the Bill also allows the council to exclude from its register any information that may jeopardise safety of persons or security of property which will allow us to mirror the present register.</p> <p>However, in light of the concerns raised, the Department agrees that the legislative parlance used in drafting the clause may be somewhat ambiguous. To clarify the original policy intent, the Department is considering a number of minor amendments along the lines of the following:</p> <p>a) The reference to an individual receiving a copy of the register is removed leaving only access to an extract from the register. Statutory bodies would still have access to the register in its entirety.</p> <p>That the person making the request must have a genuine interest in the property. We would achieve this by adopting wording similar to that in the current HMO Scheme which state "at the request of a person who appears to it to have an interest or a prospective interest in a house, to be resident therein, or to be otherwise sufficiently concerned therewith, disclose to him any entry</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>RICS</b></p> <p>Urge that further consideration is given to the increased threat to personal security of a publicly accessible register and publically displayed application which may provide personal details of both landlord and managing agent. RICS would seek that while personal information (address etc.) would be provided to the local authority it would not be on an openly public database/display. Additionally administrative consideration should also be given to any objections to proposals for an HMO to be directed to the appropriate statutory body, rather than direct to the applicant to ensure a streamlined application process.</p> <p><b>HOUSING RIGHTS</b></p> <p>Welcome the transfer of responsibility for enforcement of legislation in relation to Houses in Multiple Occupation to councils. We believe however it is imperative that robust regulations and codes of guidance are drawn up prior to enactment to ensure uniformity of application between council areas and to assist in correct and effective implementation of the legislation. Housing Rights believes the Committee should seek clarification as to whether or not the intention is that “every council” will maintain individual and distinct registers or if such information will be shared and if so, the arrangements for doing so. There are clear advantages for all parties, including the public, in operating a system which allows for ease of access and</p>	<p>in the register relating to that house.”</p> <p>As above.</p> <p>The issue of the division of responsibilities between the councils and the sharing and retention of sensitive information is a matter that will be discussed in detail during the meetings of the workgroup set up between the Department and council representatives.</p>	





Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>HMO landlords to be protected, in any open society, as demonstrated everywhere else in the UK. Such secrecy, as is the current position in NI, absolves HMO landlords of responsibilities, by presenting them as faceless business persons who make, in many cases, huge profits in large portfolio enterprises, but who have little regard for the people who live in these areas, who have been disadvantaged by these HMO enterprises.</p> <p>The Register must contain the name of the individual or company owning and managing the HMO. Anything less than this, is tantamount to concealing the conflicts of interest of those who have profited from HMOs at the expense of those who have been damaged by them.</p> <p>(NB more detail in submission)</p>		

Clause 63	Code of practice
<b>Explanation</b>	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

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b> welcomes the provision of a code of practice</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council Belfast City Council</p> <p><b>NILGA</b> support the above and assert that councils should be involved in the development of this and other documents associated with this Bill.</p> <p><b>HOUSING RIGHTS</b></p> <p>In order to achieve effective, consistent implementation of the legislation there should be a mandatory requirement on the Department to produce the identified regulations and a robust code of guidance, authorised by statute. This would require a change in wording from “may” to “shall” issue regulations and also insertion of an amendment to place the proposed code of practice on a statutory footing.</p> <p><b>RICS</b></p> <p>Highlight that RICS members are already required to adhere to a code of ethics and professional standards. We would further recommend that the Code of Practice</p>	<p>Comments noted.</p> <p>The Code of Practice will be one aspect where council representatives will be asked to contribute through the workgroup.</p> <p>Whilst the legislation says “may” the Department will be issuing a code of practice the detail of which will be provided through regulations ensuring a statutory footing.</p> <p>Whilst the Department are placed under no obligation by the primary legislation to consult on these regulations it is a matter the Department will consider adopting as part of</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
referenced under section 63 of the Bill undergoes thorough consultation to ensure it carries weight and is accepted by the sector. We are happy to work with you to support the introduction of any regime and indeed to ensure our regulatory approach is effectively integrated.	best practice.	

Clause 64	Fixed penalty : service of notice
<b>Explanation</b>	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

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
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Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b></p> <p>welcomes the provision to issue a FPN, however where non-payment of FPN and courts issue a lower fine than FPN, particularly where FPN sum can be high. Note there is an ability to provide discounted period and clarification should be provided. Experience shows discounted increases likelihood of payment.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council Belfast City Council Mid-Ulster District Council Environmental Health Section</p> <p><b>NILGA</b></p> <p>welcomes the provision to issue a FPN, however it is highlighted to the Committee that there can be instances where there is non-payment of FPN and the courts then issue a lower fine than the FPN penalty, thus rendering the FPN system worthless. Additionally NILGA notes that there is an ability to provide discounted period and clarification should be provided. Council experience would indicate that discount can increase the likelihood of payment.</p> <p><b>HOUSING RIGHTS</b></p>	<p>Noted. Unfortunately this is outside our remit as the Department has no power to direct magistrates when court fines are being set. However, the establishment of levels of fixed penalty notices will provide clarity on the legislature’s intent and the seriousness with which it takes breaches in HMO legislation. These levels may act as a guide to courts on the levels of fines to be considered.</p> <p>The Department will be exploring the option of “an ability to provide discounted period” with councils which it is felt “increases likelihood of payment”.</p> <p>Unfortunately this is outside our remit as the Department has no power to direct magistrates when court fines are being set. Noted. Unfortunately this is outside our remit as the Department has no power to direct magistrates when court fines are being set. However, the establishment of levels of fixed penalty notices will provide clarity on the legislature’s intent and the seriousness with which it takes breaches in HMO legislation. These levels may act as a guide to courts on the levels of fines to be considered.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Supportive of the concept of fixed penalty notices, but notes these can only be of meaningful deterrent value if robustly and uniformly enforced across all 11 council areas.</p> <p><b>LANDLORDS' ASSOCIATION NI</b></p> <p>We believe that the level of fines available under fixed penalty notices are too high and in particular 4(a)(b) and (c). Opportunity must be available to have the matter contested in a court of Law. We are not in favour of fixed penalty notices as they have consequences under the "fit &amp; proper person" tests, which may cause Landlords / Agents to lose their livelihood.</p>	<p>The need for consistency is understood.</p> <p>A landlord will be given the option to forego the fixed penalty notice and take the matter to court. However a landlord obtaining a conviction may affect his/her future status as a fit and proper person. Fixed penalty notices (FPN) are an important aspect of the enforcement of the new regulatory regime and have been widely supported by the vast majority of consultees. FPN will provide a more cost effective and less time consuming means of enforcing HMO legislation. The Department intend to carry out a review of the scheme after it has been in operation for 2 years and will examine the use, effectiveness and levels of FPNs used in operating the scheme.</p>	

<b>Clause 65</b>	<b>Fixed penalty: effect of notice</b>
<b>Explanation</b>	Where a fixed penalty notice is served on a person in respect of an offence no criminal proceedings may be commenced against the person



<b>Explanation</b>	Clause 66 allows for the Department for Social Development to alter the amounts of fixed penalty notices. <b>NO COMMENTS RECEIVED</b>
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<b>Clause 67</b>	<b>Appeals</b>
<b>Explanation</b>	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 <b>NO COMMENTS RECEIVED</b>

<b>Clause 68</b>	<b>Council's statement of reasons for decisions which may be appealed</b>
<b>Explanation</b>	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.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<b>CEHOG</b> would welcome guidance particularly in relation to template responses. These views are replicated in the following submissions:  Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council	Guidance will be provided to councils around this issue.	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council</p> <p><b>HOUSING RIGHTS</b> Welcome clauses 68 and 69 as once enacted they will enshrine obligations to ensure transparency of decision making in primary legislation.</p> <p><b>RICS</b> Suggest that the references made which 'invites the person on whom the notice is served' to respond within 7 days 'beginning with the date of service of the notice' is replaced with 'beginning with the date of recorded notification'.</p>	<p>Comment noted.</p> <p>Notices will be served directly on the person in question whether it be face to face or recorded/special delivery. This will ensure the appropriate notification</p>	

Clause 69	Powers of court on appeal
<b>Explanation</b>	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 regulatory authority for reconsideration.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>HOUSING RIGHTS</b></p> <p>Welcome clauses 68 and 69 as once enacted they will enshrine obligations to ensure transparency of decision making in primary legislation.</p>	<p>Comments noted.</p>	



<b>Clause 70</b>	<b>Powers to require information and documentation: introductory</b>
<b>Explanation</b>	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.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>HOUSING RIGHTS (see clause 70)</b></p> <p>Clauses 70 -76: Notwithstanding Clauses 67-69 above we anticipate that the Committee should assure itself, by way of Departmental advice, that all and any information to be obtained and thereafter shared will accord and comply with, inter alia, Human Rights, Data Protection and Northern Ireland Equality legislation.</p>	The Department can confirm that all and any information obtained, retained and subsequently shared will be subject to and comply with Human Rights, Data Protection and Northern Ireland Equality legislation	

<b>Clause 71</b>	<b>Power to obtain information from persons connected with the premises</b>
<b>Explanation</b>	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.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>CEHOG</b> welcomes this provision however in certain circumstances CEHOG may require information before specified 21 days and would welcome this additional</p>	21 days was deemed a fair period of time to allow the relevant persons to supply the requested information. Any amendment to this time period may unduly restrict their	



	<p>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.</p>
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Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b> request the inclusion of PSNI, NIFRS, Health and Social Care Trusts as a relevant person.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council</p> <p><b>HOUSING RIGHTS (see clause 70)</b></p>	<p>It is expected that these organisations will be contacted on a more informal level and that therefore a non-statutory information sharing protocol is the most appropriate arrangement</p>	

Clause 74	Failure to comply with notice under section 71, 72 or 73
<p><b>Explanation</b></p>	<p>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.</p> <p><b>HOUSING RIGHTS (see clause 70)</b> Comments noted.</p>

<b>Clause 75</b>	<b>Unauthorised disclosure of information obtained under clause 73</b>
<b>Explanation</b>	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.  <b>HOUSING RIGHTS (see clause 70)</b> Comments noted.

<b>Clause 76</b>	<b>Court to inform council of convictions</b>
<b>Explanation</b>	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.  <b>HOUSING RIGHTS (see clause 70)</b> Comments noted.

<b>Clause 77</b>	<b>Powers of entry: without warrant</b>
<b>Explanation</b>	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.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<b>CEHOG</b> under 77(3) specified 24 hours' notice at the initial application, it is not practical to give 24 hours notice where	The Department feel that where the 24 hours notice is not considered appropriate then the council can consider	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>there is reasonable grounds to suspect non-compliance ;there should be power of entry at reasonable times.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council Mid-Ulster District Council Environmental Health Section</p>	<p>using their powers of entry with a warrant. Entering without a warrant is for the survey or examination of a property. If the council become aware of a more serious situation then powers under clause 78 can be considered.</p>	

Clause 78	Powers of entry: with warrant
<p><b>Explanation</b></p>	<p>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:</p> <ol style="list-style-type: none"> <li>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) &amp; (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).</li> <li>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.</li> </ol> <p>The clause sets out a number of safeguards governing the issue and execution of warrants.</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>CEHOG</b> 78 (1) lay magistrate and 78 (2) magistrate are mentioned. Is this an intentional difference and if so clarity would be required? Highlight that a warrant under these provisions has only 1 month validation, whereas it is 3 months in other Council functions.</p> <p>These views are replicated in the following submissions: Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA Belfast City Council Mid-Ulster District Council Environmental Health Section</p>	<p>No difference as confirmed by our drafter. The reference to “a magistrate” in clause 78(2) is a reference back to the “lay magistrate” referred to in clause 78(1).</p>	

Clause 79	Powers of entry: supplementary provisions
<b>Explanation</b>	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. <b>NO COMMENTS RECEIVED</b>

Clause 80	Application by owner where consent withheld
<b>Explanation</b>	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. <b>NO COMMENTS RECEIVED</b>
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Clause 81	Obstructions
<b>Explanation</b>	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. <b>NO COMMENTS RECEIVED</b>

Clause 82	Effect of moving from accommodation for works to be carried out
<b>Explanation</b>	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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>CEHOG welcomes and notes the protection afforded to the tenant.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council  Causeway Coast and Glens Borough Council  Derry City and Strabane District Council  Fermanagh and Omagh District Council  Lisburn and Castlereagh City Council  Mid and East Antrim Borough Council  Newry Mourne and Down District Council  NILGA  Belfast City Council</p>	<p>Comments noted.</p>	

Clause 83	HMOs occupied in breach of Act
Explanation	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.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View







Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>regime starts to review fees.</p> <p>We would request that a group consisting of the representatives from the Northern Ireland Housing Executive, the Department, Belfast City Council and other local councils is formed (ASAP) to oversee the transfer of HMO regulation to Councils.</p> <p>Its' functions would be to consider the cost of administering the new regime, the transition from the existing registration scheme to licensing, the resources required and future licensing fees.</p> <p><b>NILGA</b></p> <p>NILGA notes the proposed making of regulations. NILGA asserts that fees from landlords should meet the cost of the licensing scheme. We understand that it is the intention of the Department to leave the fees in their current format and to consider the matter further with Councils as the operation of the new regime progresses. NILGA does not agree that we should wait until the new regime starts to review fees.</p> <p>As stated earlier, we would propose that a working group consisting of the representatives from the Northern Ireland Housing Executive, the Department, and local councils is formed to oversee the transfer of HMO regulation to councils. We would also request that formation of this group is expedited and that one of its functions is to consider the cost of administering the new regime, the transition from the existing registration scheme to licensing, the resources required and future licensing fees.</p> <p><b>CIH NORTHERN IRELAND</b></p>	<p>As above</p>	





	Bill that are subject to 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.
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Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>HOUSING RIGHTS</b></p> <p>the commitment contained in Clause 86 to consult with stakeholders including landlords, occupiers and representatives is welcome.</p>	<p>Noted although this consultation is only specified for certain regulations as listed in Clause 86(5).</p>	

Clause 87	General notices
<p><b>Explanation</b></p>	<p>This clause directs that any “general notices” issued by the council under the Bill must be given in writing and published in such manner as the council considers appropriate. <b>NO COMMENTS RECEIVED</b></p>

<b>Clause 88</b>	<b>Interpretation</b>
<b>Explanation</b>	This clause defines a number of terms used throughout the Bill.

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>CIH NORTHERN IRELAND</b></p> <p>Does not support the addition of “cousin” under the definition of “relative” at (3)(b). This would have the effect of broadening the section four definition of “persons who are members of the same household” for the purpose of defining an HMO, the result being deregistration of some existing HMOs that house extended families, typical for example in some BME communities. These buildings potentially present the same higher risks such as fire safety.</p> <p><b>NUS –USI</b></p> <p>Essential that any definition of family provided in the Bill is centred on equality for all,</p>	<p>Cousin included in the English/Welsh legislation and included in Bill to provide a more all-encompassing definition of relative and family unit.</p> <p>Comments noted.</p>	

<b>Clause 89</b>	<b>Consequential amendments and repeals</b>
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<b>Explanation</b>	This clause gives effect to the consequential amendments and repeals set out in Schedules 7 and 8 of the Bill. <b>NO COMMENTS RECEIVED</b>
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<b>Clause 90</b>	<b>Commencement</b>
<b>Explanation</b>	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. <b>NO COMMENTS RECEIVED</b>

<b>Clause 91</b>	<b>Short title</b>
<b>Explanation</b>	Clause 91 provides that the Act shall be known as the Houses in Multiple Occupation Act (Northern Ireland) 2015. <b>NO COMMENTS RECEIVED</b>

SCHEDULES:



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

<b>Summary of Comments and Proposed Amendments</b>	<b>Departmental Response</b>	<b>Committee View</b>
<p><b>CEHOG</b> would re-state its comments regarding its concerns over the exemption of religious communities, Housing Associations, educational establishments and, building occupied by owners.</p> <p>These views are replicated in the following submissions:</p> <p>Antrim and Newtownabbey Borough Council Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council Lisburn and Castlereagh City Council Mid and East Antrim Borough Council Newry Mourne and Down District Council NILGA</p> <p><b>BELFAST CITY COUNCIL</b></p> <p><i>The Council would re-state its comments regarding its concerns over the meaning of multiple occupation and the exemptions provided in this schedule.</i></p> <p><b>NUS - USI</b></p> <p>Schedule 1, paragraph 5 of the Bill outlines that buildings</p>	<p>Comments noted.</p> <p>Comments noted.</p> <p>These types of accommodation will only be exempt if they</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>occupied by students and managed by education establishments are not considered houses in multiple occupation, however NUS-USI wishes to emphasise how important it is that such student halls of residence and student halls of residence owned and/or managed by others must have to meet the highest health, safety and accommodation standards.</p> <p><b>NIFHA</b></p> <p>Schedule 1 of the Bill contains details of properties that will not be classed as HMOs and this includes buildings controlled by registered housing associations. NIFHA supports this exemption of housing association properties, as it recognises the greater regulatory requirements placed on properties owned and operated by our members.</p> <p><b>LANDLORDS' ASSOCIATION NI</b></p> <p>Concerned that residential buildings controlled by NIHE and Housing Associations such as large hostels for single persons will be exempt from HMO regulations. In particular they will escape the anti-social provisions of this Bill and planning permissions specific to HMO's. Such accommodation will not benefit from independent inspection by HMO officials.</p> <p>We believe that to exclude University owned and University controlled accommodation is incorrect. We submit the following:</p> <p>(a) Under this Bill the Universities will henceforth be exempt from all planning regulations specific to HMOs.</p>	<p>are managed and regulated to a standard equal to or greater than that of the Bill. Through subordinate legislation it will be specified that such regulation will be recognised in the form of accreditation (through the likes of UNIPOL etc) and the department will have regard to the extent that such regulation conforms with any code of practice approved under Clause 63 of the Bill.</p> <p>Comments noted.</p> <p>The Bill provides for exclusions from the licensing requirement which follow those in other jurisdictions, where it is accepted that certain shared houses do not need to be regulated. Those not considered as HMOs will apply where there is some other form of statutory regulation which is acceptable to the Department, or where, because of the purpose to which the HMO is put, the associated risk to its occupants is reduced to a level where regulation is not needed, for example, because the owner lives in the property.</p> <p>Our rationale to exclude buildings controlled or managed by public sector bodies from the requirement to be licensed is where there is already a statutory or other</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Queens University has had difficulty with several proposals for residential development in South Belfast under the HMO subject plan.</p> <p>(b) The Universities will not under this Bill pay HMO fees as they do presently, thus adding to the burden of other Landlord's. This exempt provision is contrary to the judgement of Girvan J Girc 5216 where he struck down the Fees Order.</p> <p>(c) University accommodation is managed with a business approach to maximising income for the Institution, thus the opportunity to let said accommodation to nonstudents outside term time and particularly during the summer months to maximise income is facilitated by 5(1)(a). This clause allows these Institutions to avoid HMO fees and regulations, even though they are in direct competition with the private sector.</p> <p><b>MR PAUL AHERN - EX NIHE HMO MANAGER (COLERAINE RO)</b></p> <p>I have serious concerns regarding exempting Housing Association properties from licensing, in the past 2½ years</p>	<p>requirement in place acceptable to the Department that meets certain standards equal or better than those in the HMO regulatory regime. As well as the current legislation in operation under the HMO Registration Scheme this type of housing association property is already overseen by various regulatory bodies including the DSD, Supporting people and the Regulation and Quality Improvement Authority (RQIA). One of the regulatory frameworks by which the housing associations must comply is the Housing Association Guide.</p> <p>The Department is unaware of any planning issues relating specifically to Queens.</p> <p>Under the registration scheme and the subsequent JR there was a case as to why universities were not required to pay fees as they were still classed as HMOs under the definition. However, within the HMO Bill this type of accommodation is excluded from the definition for the reasons given above. As it will no longer be categorised as an HMO it is perfectly acceptable for there to be a zero charge.</p> <p>The Department would argue that 5(1)(a) would have the opposite effect. By excluding such buildings from the definition by virtue of the fact that they are occupied by students under-taking full time courses during term time. During the summer months the University may populate these empty rooms with temporary visitors but they are not using the accommodation as their only or main residence so are still excluded from the definition</p> <p>Article 48 of the Fire and Rescue Services (NI) order 2006</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>the Housing Executive have served in the region of 95 statutory notices on Housing Associations primarily in relation to providing and maintaining adequate fire safety measures. My concern is particularly acute as Housing Associations provide the bulk of supported living accommodation in Northern Ireland and such properties are occupied by some of the most vulnerable members of society.</p> <p><b>QUB</b> Buildings occupied by full time students and managed by an educational establishment are not considered Houses in Multiple Occupation. In supporting this clause, it is recognised that this is the approach used for PBMSA in England and Wales, and therefore aligns the approach for this type of accommodation within the sector.</p>	<p>provides that where a statutory provision provides for the licensing of premises or a person in respect of premises shall be of no effect. Essentially this means where a licensing scheme exists it is automatically over-ruled by the NIFRS legislation and this is used as the default standard for fire safety in these cases. This would mean that even if excluded from the HMO definition these properties would still be subject to the same fire safety standards when reported to NIFRS. (Figures obtained from the NIHE show that of these 95 notices 42 were issued on just two buildings).</p> <p>Comments noted.</p>	

Schedule 2	Applications for HMO licences: requirements and procedure
<b>Explanation</b>	Schedule 2 contains the detail about the procedure for the consideration of an application for an HMO licence.

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<b>CIH NORTHERN IRELAND</b>		

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Sections two and six – applicant to display notice of application; information which must be contained in notice under paragraphs two to five</p> <p>Further to our comments under section 62 we would question the appropriateness of displaying the HMO owner’s personal address on the publication of application on or near the HMO. We believe it would be more appropriate for such a notice to be displayed inside the HMO, ensuring tenants have access to the information and are then able to communicate it to public bodies or housing organisations if required.</p> <p>Other stakeholders should be encouraged to approach the council.</p> <p><b>LANDLORDS ASSOCIATION NI</b></p> <p>Concerned for the safety and welfare of Landlords and their agents with respect to the publication of applications for an HMO, in particular the notice provisions under 6(1) which would appear to require the applicants name and address to be attached to subject building for 21 days. Further the Council is given power under 5(a) to publish notice of application for an HMO licence in the local press. It would appear that this will include names and addresses of Landlord’s.</p> <p>We have taken it that Schedule (2) is solely in relation to application for new HMO’s and not renewal of existing HMO licences.</p> <p><b>RICS</b></p>	<p>Schedule 2(2) states that a person making a HMO application must cause notice of the application to be displayed. It does not direct that the actual application or its content must be displayed but rather a notice to the effect a notice to the effect that an application has been made should be made available. The detail of what should be contained in this notice will be clarified in guidance but it will not contain any sensitive information.</p> <p>Schedule 2(2) states that a person making a HMO application must cause notice of the application to be displayed. It does not direct that the actual application or its content must be displayed but rather a notice to the effect that an application has been made should be made available. The detail of what should be contained in this notice will be clarified in guidance and it will not contain any sensitive information.</p>	

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p>Urge that further consideration is given to the increased threat to personal security of a publicly accessible register and publically displayed application which may provide personal details of both landlord and managing agent. RICS would seek that while personal information (address etc.) would be provided to the local authority it would not be on an openly public database/display. Additionally administrative consideration should also be given to any objections to proposals for an HMO to be directed to the appropriate statutory body, rather than direct to the applicant to ensure a streamlined application process.</p> <p>Suggest that the references made which 'invites the person on whom the notice is served' to respond within 7 days 'beginning with the date of service of the notice' is replaced with 'beginning with the date of recorded notification'.</p>	<p>See response above</p> <p>The Bill makes no specific provisions for, or reference to, a person being made permanently homeless as a result of its operation. Whilst it is possible that the enforcement of the new HMO regulations may result in a property being unsafe</p>	

Schedule 3	Further provision about notices that require works to be carried out
<p><b>Explanation</b></p>	<p>Schedule 3 contains the detail about the provisions relating to notices requiring works to be carried out.</p> <p>Part 1: Provision applying to all notices that specify works</p> <p>Part 2: Failure to carry out works required by rectification notice or hazard notice</p>

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<p><b>NUS-USI</b></p> <p>Essential that anyone who is evicted from a property or anyone who has to leave their property as a result of matters relating to this Bill has, or is supplied with suitable replacement accommodation by the relevant authority.</p> <p><b>RICS</b></p> <p>Suggest that the references made which ‘invites the person on whom the notice is served’ to respond within 7 days ‘beginning with the date of service of the notice’ is replaced with ‘beginning with the date of recorded notification’.</p>	<p>The Bill makes no specific provisions for, or reference to, a person being made permanently homeless as a result of its operation. Whilst it is possible that the enforcement of the new HMO regulations may result in a property being unsafe</p> <p>Comment noted but the department feel this is already accounted for. Notices will be served directly on the person in question whether it be face to face or recorded/special delivery. This will ensure the appropriate notification.</p>	

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

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
<b>RICS</b>		

Summary of Comments and Proposed Amendments	Departmental Response	Committee View
Suggest that the references made which 'invites the person on whom the notice is served' to respond within 7 days 'beginning with the date of service of the notice' is replaced with 'beginning with the date of recorded notification'.	Comment noted but the department feel this is already accounted for. Notices will be served directly on the person in question whether it be face to face or recorded/special delivery. This will ensure the appropriate notification.	

Schedule 5	Part 4 notices: further provisions
<b>Explanation</b>	Schedule 5 contains the detail about the serving and use of other Part 4 notices. Part 1: Service and date of effect of notices Part 2: Suspension of effect of notices Part 3: Variation and revocation <b>NO COMMENTS RECEIVED</b>

Schedule 6	Definitions for the purpose of section 73
<b>Explanation</b>	Schedule 6 contains definitions of terms used in Clause 73 of the Bill. <b>NO COMMENTS RECEIVED</b>

Schedule 7	Consequential amendments
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<b>Explanation</b>	This schedule contains the detail of the consequential amendments resulting from the introduction of this Bill.  <b>NO COMMENTS RECEIVED</b>
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Schedule 8	Repeals
<b>Explanation</b>	This schedule contains the detail of the repeals resulting from the introduction of this Bill.  <b>NO COMMENTS RECEIVED</b>

### Other comments requiring response/comment:

Time available for consultation flagged up as being inadequate for councils

### Department Response:

Timescale for response to call for evidence was decreed by SDC.

### Northern Ireland Fire and Rescue Service

Articles 78(2)(a)(ii) and (c), 80(2)(d), 82 and Schedule 4 to the Housing (NI) Order 1992 make provision in relation to fire safety and creates a dual responsibility for fire safety between NIFRS and the NIHE in all HMOs. NIFRS note that there is to be no duality of approach under the new proposed bill and query if this is because Article 48 of the Fire and Rescue Services (NI) Order 2006 voids any legislative requirement that might be made for fire safety in licensable HMOs through this bill.

Can you clarify if there is an expectation that owners of HMOs that register with the Local Council will have to seek approval or a 'clearance letter' from NIFRS to assuage the Local Council that the building meets the required Fire Safety Standards?

NIFRS sees in this draft bill significant potential for all aspects of fire safety enforcement to be removed from the NIHE directly to NIFRS without any fire safety enforcement being picked up at Local Council level and would value an early discussion about our current capacity to take on this extra workload. NIFRS currently operate a process of sample audit and work closely with NIHE in relation to Prohibition notices but would seek clarification from the working group leading on this bill if the expectation is that all fire safety matters are to be dealt with solely by NIFRS.

**Department Response:**

The approach for fire safety under the HMO Bill will be to avoid overlapping regimes and duplication by operating a single fire safety regime. Fire safety in NI is principally dealt with through the Fire and Rescue Services (NI) order 2006. Article 48 of the Fire and Rescue Services (NI) order 2006 restricts the extent to which licensing regimes can deal with fire safety. As a consequence general fire safety measures cannot be imposed through the HMO licensing regime by way of licence conditions.

However the council has a duty under the HMO Bill to take into account the condition of a living accommodation as well as the safety and security of the persons likely to occupy it – the council should therefore take into account the level of fire safety in the HMO and the extent of the compliance with the Fire and Rescue Services (NI) order 2006. And may if it sees fit, refuse to grant or remove licence on this basis.

In practice this means issues of fire safety can be highlighted and addressed at a local level by the HMO inspectors as these same issues relate to the health and safety of the occupants and the Bill provides the council with the powers to deal with these.

The Department will provide guidance for councils which will include fire safety and means of escape. Department considers a formal MOU with NIFRS should be considered and put in place and will take this forward with councils as discussions around the transfer progress.

It is envisaged the new protocols for fire safety will mirror as far as possible the current arrangements and the Department does not envisage any increase of work for the NIFRS other than more cohesive working across authorities. The Department is setting up a stakeholder group to examine such issues with the detail to be clarified in a code of practice and guidance to assist councils to operate the scheme.

CEHOG (whose views are replicated by most councils) make the following comments

Concern around lack of information to permit sufficient time for planning and delivery of powers e.g. number and location of existing HMOs.

CEHOG believes that when the owners of HMO's live outside the jurisdiction of NI there still needs to be a mechanism to ensure these landlords are held accountable. Management orders have not been introduced within the draft bill. The role of Management Orders with respect to HMO's should sit with the Regional Housing Provider or its Housing Associations\*.

The Planning definition of a flat means that it will not be included in areas where there are HMO development limits. This inconsistency needs to be addressed to ensure that areas which already have a high level of HMOs are not saturated with flats/apartments. Within the current HMO definition, there is scope unfortunately for flats in a converted house to be grossly over-occupied by members of the same family. Converted houses need to be defined as a HMO or else adequate overcrowding legislation to cover the entire private rented sector needs to be introduced.

Ambiguity in terms of fire safety within the provisions. CEHOG would request that any regulations made under the draft Bill will be capable of covering all aspects of fire safety.

Courts are imposing fines significantly less than the fixed penalty charge, therefore rendering the fixed penalty worthless. This matter needs to be urgently addressed to assist Councils in their enforcement role.

Consideration will need to be given to resource and capacity implications due to the enhanced licensing enforcement scheme proposed by the Department.

*\*NB Belfast City Council, in contrast, state that future regulation in respect of these should sit with local councils but require the Councils to work with NIHE and Housing Association partners.*

**Department Response:**

The Department will be engaging with both councils and the NIHE around the transfer of HMO functions. A Stakeholder Workgroup with a representative from each of the 11 councils has been set up and will be meeting for the first time in early December. The Department will act in a secretariat role at this workgroup and will ensure that councils have the appropriate time and information about the number and location of existing HMOs to enable them to plan and deliver their statutory function.

Under the new licensing scheme an application for a HMO Licence must specify the details of any managing agent. This managing agent will be required to subject to the same fit and proper person test as the owner and will be held accountable for the physical and management standards under the licensing scheme. Additionally, as part of the licence conditions which will be specified in regulations, where a landlord does not reside in the jurisdiction there will be a requirement for them to appoint a managing agent, operating and based in the jurisdiction, to act on their behalf.

The extent and impact of overcrowding in the private rented sector is being considered as part of a review currently being undertaken by the Department.

Please see the response above with regards to fire safety within the HMO Bill.

The Department are aware that there is significant frustration felt by councils where courts are imposing fines significantly less than the fixed penalty charge. Unfortunately this is outside the remit of the Bill however during the oral presentations the Committee stated they were aware of this long standing issue and indicated they would consider the issue further with the relevant authorities.

The issue of resource and capacity implications on the councils following the adoption of the new licensing scheme will be addressed by the Stakeholder Working Group.

#### Armagh City, Banbridge and Craigavon Borough Council

Recommend a full cost appraisal is completed on behalf of councils which takes into account the wider regulatory requirements and the likely number of HMOs requiring regulation. Fees and charges associated with the system and costs of transferring DSD staff will need to be agreed and should be cost neutral to the council.

#### **Department Response:**

As stated in previous answer to CEHOG a workgroup with a representation from each of the 11 councils has been set up and will be meeting for the first time in early December. The Department will act in a secretariat role at this workgroup and one of the main areas of work will be establishing cost and resource implications following the transfer of HMO function from the NIHE to councils in tandem with the introduction of a new licensing regime.

#### NILGA

would be keen to see the early formation of a special working group between councils, the Department for Social Development, the Housing Executive and the Department for Finance and Personnel, to ensure that appropriate resourcing of the transfer of function takes place and to facilitate effective business planning ahead of transfer. This is particularly important, given that the transfer proposed to take place is that of an enhanced scheme.

#### **Department Response:**

As above. A workgroup with a representation from each of the 11 councils has been set up and will be meeting for the first time in early December. The Department will act in a secretariat role at this workgroup and one of the main areas of work will be establishing cost and resource implications following the transfer of HMO function from the NIHE to councils in tandem with the introduction of a new licensing regime.

#### Belfast City Council

Over 60% of HMOs in Northern Ireland are located in Belfast with the majority of these in south Belfast. The consequences of such a high concentration of HMOs in the Holylands and wider university area are well known and have been widely documented. The main issue is that the streets, the houses

and the amenities, not to mention the sewerage infrastructure, were not originally designed for such a large concentration of people. It is essential that this Bill supports both the Council's plan for the city and to restore this area.

See submission which details how this legislation relates to:

Belfast City Centre Regeneration and Investment Strategy.

Belfast: A Learning City – A Framework for student housing and purpose built student accommodation

Different types of properties will pose different risks and problems and need to meet different standards. Regulations proposed in Sections 13 with regard to suitability of living accommodation and section 54 (Prescribed Hazard) should recognise this.

#### Information Sharing

The City Council welcomes the provisions in the Bill that will allow for the opening of statutory information gateways with a number of government and non-government organisations and bodies. These gateways will provide a robust method for relevant information to be obtained to assist in the identification and regulation of HMOs.

They will also permit the sharing of information that will be required in relation to the assessment of the new fit and proper person requirement.

#### **Department Response:**

The Department are confident that the HMO Bill supports both the Council's plan for the city and to restore this area.

The Department are aware that different types of properties will pose different risks and problems and need to meet different standards. This is the policy rationale behind Clause 50(4)(a)&(b). This same policy rationale will be carried forward into the regulations.

#### Belfast Holylands Regeneration Association

- 1) Make properties with more than 20% one bedroom flats subject to HMO regulations.
- 2) Increase HMO registration fees on an exponential scale related to the percentage of HMOs in the street greater than 30%.
- 3) Refuse to renew licences for HMO registration in streets that have over 30% HMOs

#### **Department Response:**

Whilst the Department appreciate the comments made by Belfast Holylands Regeneration Association (BHRA) they have to be taken in context with what the Bill is aiming to achieve. The problems in the Holylands and University area are long standing and well known but are not replicated anywhere else in Northern Ireland. One of the main aims of the Bill is to ensure this situation cannot arise elsewhere but it is not a piece of legislation brought forward to

primarily tackle and reverse the problems in the Holylands. It is of course hoped that the Bill will increase housing and management standards in these areas but it does not have the power to remove a property from HMO usage if it is operating within the parameters of the licensing scheme. Unfortunately the suggestions made by BHRA are specifically tailored to the Holylands and University area and could not be feasibly rolled out to the rest of NI.

#### Sans Souci Residents Association

In these times of increasing migration, landlords should be required to provide certified translations of HMO tenancy agreements in the native language of the person(s) signing it. The landlord should also ensure that all tenants understand, through face-to-face communication through a suitably qualified interpreter, when they are signing up to its conditions.

#### **Department Response:**

Through guidance and best practice landlords will be encouraged to ensure prospective tenants, whose primary language is not English, are adequately for when entering the tenancy of a HMO.

#### SUPPORTING COMMUNITIES NI

Clause 14-40; We support the conditions of the license as outlined in the Bill, including the duration, variations and revocation. Supporting Communities NI also believes that the application of sanctions where licenses are breached should be suitably robust.

#### **Department Response:**

The Department notes the comments made by Supporting Communities NI and is appreciative of the feedback.

#### NIFHA

One of the regulatory frameworks by which housing associations must comply is the Department for Social Development (DSD) Housing Association Guide. Annex C of this guide sets out supported housing design standards including requirements applicable to HMOs.

The design standards currently make reference to the Housing Executive's published Approved Standards for HMOs. The guide requires housing associations providing HMO accommodation to adhere to these standards. Should any updates to the guide make reference to the new proposed HMO standards, this may have an impact on our members. NIFHA would request that in order to provide clarity for our members, this guidance is updated in consultation with housing associations.

#### **Department Response:**

The Department would like to assure NIFHA that any appropriate Departmental guidance will be updated, following the introduction of the HMO licensing scheme, to reflect any changes to standards. We will make the teams involved in updating these standards aware of NIFHA's request to be consulted when these updates are taking place.

## RICS

RICS notes that the Bill does not make reference to handling client money. Managing agents in Northern Ireland should be required to demonstrate that they have sound arrangements for protecting client money, requiring safeguarding of clients' money, and effective regulation and clients money protection insurance. Each agent should be required to operate a complaints handling procedure (CHP) that they publicise to their clients at the outset of conducting business with them. For further details on the RICS approach to regulating the protection of client money see:

<http://www.rics.org/uk/regulation/regulation-uk/protecting-clients-money/> (see submission for more info)

RICS may be considered as an appropriate body to undertake the regulation of managing agents in Northern Ireland, providing the potential to have the same policy outcomes as statutory regulation but with the added benefits of reduced cost to Government and swifter implementation timescales. An example of an option to facilitate this suggestion would be as follows - (see submission for more info)

### **Department Response:**

Unfortunately this is outside the remit of the HMO Bill but we wish to inform RICS that the issue of the regulation of Management Agents is being progressed by the Department for Finance and Personnel.

## CIH

The overall intention of the legislation should be to protect vulnerable households. To this end there may be scenarios where a property with severe overcrowding and/or health and safety issues might reasonably be classified as an HMO but not under the definitions within the Bill e.g. in a rented property where there are a large number of extended family members residing as one household. We would therefore ask the Committee to consider whether there should be scope for councils to treat individual properties as if they were HMOs where such acute issues are identified.

### **Department Response:**

The approach suggested by CIH would be similar to the approach in England whereby additional licensing is undertaken alongside the mandatory licensing of properties of 3 or more stories occupied by 5 or more people. This allows the local authority to tackle other properties they believe should come under HMO legislation on a selective basis. The need for this has been created by the diverse housing stock in England as well as the disparity between the housing scenarios faced in London and the South of England compared to those faced by HMO providers in the North of England. This disparity does not exist in Northern Ireland and any attempt to instigate a system, whereby certain properties are brought within the legislation on a case by case basis, would be counter-productive and could lead to problems of uniformity of approach across council areas and possible legal challenge due to the subjective nature of the decisions being undertaken. The Department are content that the legislation offers adequate protection to vulnerable households and that the scenario outlined by CIH would be better dealt with outside the Bill through existing private rented sector legislation.

**NORTHERN IRELAND ASSEMBLY**

**POLITICS PLUS**

**DANIEL GREENBERG NOTES ON**

**HOUSES IN MULTIPLE OCCUPATION BILL**

<i>Clause</i>	<i>Topic</i>	<i>Comment</i>	<i>Departmental Response</i>
1	Meaning of "house in multiple occupation"	Power to amend in subs.(3) very broad – what's the point in debating key definition if Department can just change it?	As this Bill introduces a new streamlined definition of what constitutes an HMO there was a need to ensure it would have the capacity to take account of any future changes occurring within the sector that may affect what is considered an HMO. As this power would allow the Department to amend elements of the Houses in Multiple Occupation Bill, draft affirmative resolution offers the most appropriate form of Assembly control. This means that any amendment would still undergo comprehensive scrutiny in the Assembly.
3	Cases where person is treated as occupying accommodation as only or main residence	Status of these cases: why single out for specification on face of Bill.  Power in subs.(4) very broad – again, could be used to undermine agreed principles of Bill?	The detail of this was specified on the face of the Bill as an example of the type of accommodation outside of normal residential premises, where a person can be classified as living in it as a main residence. Given that this power provides for an addition or amendment to a prescriptive list, but without altering the text of the Act, it was felt that negative resolution was the most appropriate form of Assembly control.
5	Notice regarding evidence of household	What kinds of evidence are realistic for subsection (2)(c) – unreasonable burden to require person to discharge?  Are there human rights issues here around respect for family life / home life?  What grounds would be sufficient for appeal under cl.67 against a decision under this section?	The evidence of household will be decided with councils along with other operational detail. It is envisaged it will operate along the lines of the procedure currently operated by the NIHE. Human rights issues have been considered and the Bill has been deemed competent by both DSO and the Attorney General. The information being requested is required to assist councils in fulfilling a statutory function and the Department feel the detail of this request is proportionate to its aim.
6	Notice regarding continuation of occupation	Subsection (8) "service" is wrong.	The word "service" is incorrect and will be amended to "serve".
10	Fit and proper persons	Subsection (3)(b) is very broad – should be limited in some way? What if council tried to include political or	Councils cannot include political or religious affiliations as they are already bound by pre-existing equality legislation prohibiting such action. The reference to former associates in



<i>Clause</i>	<i>Topic</i>	<i>Comment</i>	<i>Departmental Response</i>
		<p>religious affiliation?</p> <p>Is reference to former associates in subsection (5) guilt by association? Human rights compliant?</p>	<p>subsection (5) is not guilt by association, as the person would not automatically fail the fit and proper person test in this situation, but is instead relevant information which may be of interest to councils in establishing patterns of behaviour.</p>
13	Suitability of living accommodation for multiple occupation	<p>In subsection (2)(b) what does “type” of person mean?</p> <p>In subsection (2)(d) what does “undue” mean – what nuisance would be “due”?!</p> <p>Does subsection (4)(b) apply even if all standards are met? Then what’s the point of having standards? How does this provide certainty for stakeholders? Where is the incentive to invest to improve housing if might still be ruled unfit?</p> <p>In subsection (5)(f) “any requirements” – refers to what? Who is going to set requirements? How? Certainty / clarity?</p>	<p>The Department thought it useful for councils to be aware and take account of the “type” of people likely to be occupying the property e.g students, older persons. This is particularly relevant to ascertain any special facilities that might be required and whether the accommodation is appropriate to the proposed occupiers’ needs. Taking account of the concerns raised, the Department can consider changing wording to, for example, nature or kind of person and the drafter has advised us that there is no material difference between the words ‘type’, ‘nature’ or ‘kind’ in this context. It is worth noting that this wording has been adopted from current HMO legislation operating in Scotland.</p> <p>The word undue is included to distinguish between a nuisance that is tolerable (i.e. noise from a busy road or nearby railway line) and a nuisance that is intolerable and therefore undue.</p> <p>Whilst the provision in 13(4)(a) may seem to contradict that in (b) this is not the case. The minimum standards will be specified in regulations and will be geared to capture as many HMOs as possible. These standards will be applicable across all HMOs and as such will be tailored to incorporate the majority of occupancy levels (i.e. between 3 and 10).The property may meet the minimum terms under (a) and be suitable for occupation by 6 people however the council may feel it is not suitable for occupation by 15 or 20 people which may be what the landlord is proposing.</p> <p>The requirements referenced here relates to the display of signs in relation to fire exits or other fire matters. Regulations will specify the detail to be included in these signs as well as how many signs should be displayed, where the signs should be located etc.</p>
14	Licence conditions	<p>Subsection (1) power to broad without statutory statement of regulatory objectives.</p>	<p>Regulations will provide more of the detail about licence conditions i.e. where a landlord is resident outside the jurisdiction they must appoint a managing agent based and operating within the</p>

<i>Clause</i>	<i>Topic</i>	<i>Comment</i>	<i>Departmental Response</i>
		Is it really fair / practical to regulate by reference to visitors in (2)(b)?	jurisdiction. Further consideration is being given to the reference to visitors.
43	The space standard	<p>Too much detail here – inflexible – this is a case where it would be better to set out the regulatory principle on the face of the Bill and leave the details to be set by subordinate legislation; sometimes too much detail on the face of the Bill is as bad as too little.</p> <p>What does “normally used in the locality mean”? Again, better for principle on face of Bill and detail fleshed out in subordinate legislation.</p> <p>Subsection (5) shows that despite the detail on the face of the Bill, essential components are still left to subordinate legislation – so better to have principle here and details in subordinate legislation.</p>	<p>This space standard although enforced, does not sit within the legislation under the current HMO registration scheme. Instead it sits within non – statutory guidance which was identified as a possible weakness that required redress when designing the new regulatory system. It was our intention to bring this detail to the front of the primary legislation to avoid confusion. Due to the threat posed to health and safety by breaching these standards and creating a situation of overcrowding, it was felt that this detail was warranted in the Bill. When researching where this technical detail was sourced from it was found that it was replicated from Section 137 of the Housing (Scotland) Act 1987. The same level of technical detail, as is included in our HMO Bill, is also included in this piece of Scottish primary legislation.</p> <p>The issue of the inclusion of the word “locality” is currently being considered. It is the Department’s intention to remove the reference and we are progressing this with the drafter.</p>
60	Offences	What kind of excuses would be reasonable for the purposes of subsection (1)(b) – would be good to have some examples in the Explanatory Notes.	Reasonable excuses for committing an offence will be judged on a case by case basis. Examples of such excuses will be listed in guidance provided to councils. If the occupant does not speak or understand English this could be taken as a reasonable excuse.
63	Code of practice	Can Department be clear that no other legal consequences would attach to breach? Can they identify other potential consequences?	The Code of Practice is a set of standards of conduct and practice laid down in regulations. If a landlord fails to comply with an aspect of the code they may be guilty of a breach of licence conditions and face legal consequences as a result
64	Fixed penalty: service of notice	This is an extreme instance of giving officials powers to exercise criminal jurisdiction, in effect – and only requires “reason to believe” whereas courts work on certainty; civil penalties	<p>The required certainty is covered by the option of the licensee foregoing a fixed penalty notice and proceeding directly to court. This option is open to anyone being served with a fixed penalty notice.</p> <p>The Committee may wish to note that a Bill</p>

<i>Clause</i>	<i>Topic</i>	<i>Comment</i>	<i>Departmental Response</i>
		are acceptable in some places but query here? Amounts to requiring people to pay for proper justice in front of court, by accepting risk of higher penalty. In principle, offences should be determined by courts.	recently introduced in the UK Parliament also proposes the introduction of a fixed penalty notice system in HMO regulation.
67	Appeals	What principles will county court apply in subsection (2)? If not set out, undermines point of appeal.	The Department feel it would be inappropriate to include such detail in our Bill. The County Court principles are covered in The County Court Rules (Northern Ireland) 1981 and are not therefore required to be replicated. This clause was drafted based on Article 37 of the Private Tenancies (Northern Ireland) Order 2006 and that article makes no reference to the County Court principles.
84	Fees	Are indirect costs included in subsection (3)? Is cross-subsidisation of cases intended?	The Department is in the process of setting up a working group to discuss cost and resource implications with councils. Fees and their specific use will also be discussed.
85	Guidance	Could Department give examples of intended use of subsection (1)?	The Department intend to issue comprehensive guidance to councils on all operational aspects of the Bill.