

Northern Ireland
Assembly

Houses in Multiple Occupation Bill
Annotated Marshalled List of Amendments
Consideration Stage
Tuesday 23 February 2016

Amendments tabled up to 9.30am Wednesday, 17 February 2016 and selected for debate

The Bill will be considered in the following order-

Clauses, Schedules and Long Title

Amendment 1 [Made]

Clause 3, Page 2, Line 35

After 'residence' insert 'there'

Minister for Social Development

Amendment 2 [Made]

Clause 3, Page 2, Line 36

At end insert -

‘(2A) A person who occupies living accommodation for the purpose of engaging in seasonal work is to be treated, at all times during that person’s residence there, as occupying that accommodation as the person’s only or main residence.’

Minister for Social Development

Amendment 3 [Made]

Clause 9, Page 6, Line 37

Leave out paragraph (b)

Minister for Social Development

Amendment 4 [Made]

Clause 9, Page 6, Line 39

Leave out ‘and (i)’

Minister for Social Development

Amendment 5 [Made]

Clause 10, Page 7, Line 34

Leave out from ‘living’ to end of line 35 and insert ‘relevant living accommodation whilst in the accommodation, or’

Minister for Social Development

Amendment 6 [Made]

Clause 10, Page 7, Line 37

Leave out subsection (7) and insert -

‘(7) In subsection (6) —

“anti-social behaviour” means —

- (i) acting or threatening to act in a manner causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises or in the locality of such premises, or

- (ii) using or threatening to use residential premises for immoral or illegal purposes;

“relevant living accommodation” means living accommodation of which P is or was the owner or managing agent.’

Minister for Social Development

Amendment 7 [Made]

Clause 18, Page 12, Line 11

Leave out ‘under section 67’ and insert ‘in accordance with section 67(4)’

Minister for Social Development

Amendment 8 [Made]

Clause 20, Page 13, Line 10

Leave out from ‘sections’ to end of line 11 and insert -

‘the following provisions do not apply to applications to renew ☐—

- (a) sections 8(2)(a) and 9 and paragraphs 8 to 10 of Schedule 2 (breach of planning control);
- (b) sections 8(2)(d) and 12 (overprovision).’

Minister for Social Development

Amendment 9 [Made]

Clause 21, Page 13, Line 19

Leave out paragraph (b)

Minister for Social Development

Amendment 10 [Made]

Clause 21, Page 13, Line 25

Leave out ‘if the council refuses the application on any other ground’ and insert ‘if the application is refused’

Minister for Social Development

Amendment 11 [Made]

Clause 21, Page 13, Line 28

Leave out ‘under section 67’ and insert ‘in accordance with section 67(4)’

Minister for Social Development

Amendment 12 [Made]

Clause 21, Page 13, Line 33

Leave out subsection (3)

Minister for Social Development

Amendment 13 [Made]

Clause 26, Page 15, Line 21

Leave out ‘(2)(b)’ and insert ‘(2)’

Minister for Social Development

Amendment 14 [Made]

Clause 26, Page 15, Line 22

After second 'the' insert 'owner or'

Minister for Social Development

Amendment 15 [Made]

Clause 26, Page 15, Line 23

After 'particular' insert ', in a case falling within subsection (2)(b)'

Minister for Social Development

Amendment 16 [Made]

Clause 26, Page 15, Line 28

Leave out from first 'in' to end of line 32 and insert -

- '(a) there is a transfer of ownership of a licensed HMO,
- (b) as a result of the transfer one or more joint licensees (but not all of them) cease to be an owner of the HMO,'

Minister for Social Development

Amendment 17 [Made]

Clause 26, Page 15, Line 35

Leave out subsection (5) and insert -

'(5) Where ☐—

- (a) there is a transfer of ownership of a licensed HMO,
- (b) as a result of the transfer there is a new owner (or more than one), and
- (c) at least one person who was a licensee before the transfer continues to be an owner after it,

the new owner (or any of them) may apply to the council to be added as a joint licensee.

(5A) The council must ☐—

- (a) treat an application under subsection (5) as an application to renew the licence made jointly by the existing licensee and the new owner, and
- (b) if it decides to grant the application, vary the licence accordingly.'

Minister for Social Development

Amendment 18 [Made]

Clause 26, Page 15, Line 41

After 'subsection' insert '(5A) or'

Minister for Social Development

Amendment 19 [Made]

Clause 26, Page 15, Line 43

At end insert -

‘(8) In this section ☐—

“transfer of ownership” includes the creation of a new estate;

“new owner” means a person who is an owner after the transfer but was not an owner before it.’

Minister for Social Development

Amendment 20 [Made]

Clause 28, Page 16, Line 7

Leave out subsections (1) and (2) and insert -

‘28.—(1) A licence may be transferred to another person only in accordance with this section.

(2) Accordingly, except as set out in subsection (2A), where ☐—

(a) there is a transfer of ownership of a licensed HMO,

(b) as a result of the transfer there is a new owner (or more than one), and

(c) no person who was a licensee before the transfer continues to be an owner after it,

the licence ceases to have effect on the date of the transfer.

(2A) If ☐—

(a) there is a transfer of ownership of a licensed HMO, and

(b) before the date of the transfer, the proposed new owner (or any of them) applies for a licence in respect of the HMO (a “new licence”),

the licence which is already in effect in respect of the HMO (“the existing licence”) is to be treated as being held, from the date of the transfer, by the person or persons who made the application for the new licence (“the transferee”).

(2B) But the existing licence ceases to have effect on the date mentioned in subsection (2C).

(2C) That date is ☐—

(a) if the transferee’s application is granted, the date from which the new licence has effect (determined in accordance with section 19(1) or (4)(a));

(b) if the transferee’s application is refused ☐—

(i) one month after the last date on which the decision to refuse the transferee’s application may be appealed in accordance with section 67(4), or

(ii) if such an appeal is made, one month after the date on which the appeal is finally determined.

(2D) Subsection (2B) and (2C) are subject ☐—

(a) to sections 23 (revocation) and 27 (surrender), which provide for a licence in certain circumstances to cease to have effect earlier than as provided by this section, and

(b) if the transferee dies, to section 29, which provides for a licence in certain circumstances to cease to have effect earlier than, or later than, as provided by this section.’

Minister for Social Development

Amendment 21 [Made]

Clause 28, Page 16, Line 12

Leave out ‘subsection (2)’ and insert ‘this section’

Minister for Social Development

Amendment 22 [Made]

Clause 29, Page 16, Line 22

After ‘period’ insert ‘for which the licence has effect beyond the date’

Minister for Social Development

Amendment 23 [Made]

Clause 29, Page 16, Line 28

Leave out subsection (5) and insert -

‘(5) Subsections (1)(b) and (2) are subject—

- (a) to sections 23 (revocation) and 27 (surrender), which provide for a licence in certain circumstances to cease to have effect earlier than as provided by this section, and
- (b) if the personal representatives of the licensee transfer ownership of the HMO, to section 28, which provides for a licence in certain circumstances to cease to have effect earlier than, or later than, as provided by this section.’

Minister for Social Development

Amendment 24 [Made]

Clause 33, Page 18, Line 23

Leave out from ‘do’ to end of line 24 and insert ‘act as a managing agent in relation to the HMO, and’

Minister for Social Development

Amendment 25 [Made]

Clause 33, Page 18, Line 28

Leave out paragraph (a) and insert -

‘(a) A, on behalf of the owner of a licensed HMO, acts as a managing agent in relation to the HMO,’

Minister for Social Development

Amendment 26 [Made]

Clause 33, Page 18, Line 32

At end insert -

‘(2A) For the purposes of this section, a person acts as a managing agent in relation to an HMO if the person—

- (a) does, in relation to the HMO, any of the acts mentioned in paragraph (i), (ii) or (iv) of the definition of “managing agent” in section 88(1), or
- (b) engages in any other activity or course of activity which constitutes, or assists in, the management of the HMO.’

Minister for Social Development

Amendment 27 [Made]

Clause 62, Page 32, Line 32

Leave out ‘its register available for public inspection’ and insert ‘any entry relating to an HMO available for inspection, by any person who falls within subsection (8A) in relation to that entry,’

Minister for Social Development

Amendment 28 [Made]

Clause 62, Page 32, Line 35

Leave out from second ‘a’ to ‘who’ on line 36 and insert ‘an entry relating to an HMO to any person who falls within subsection (8A) in relation to that entry and’

Minister for Social Development

Amendment 29 [Made]

Clause 62, Page 32, Line 36

At end insert -

‘(8A) A person falls within this subsection in relation to an entry if the person appears to the council—

- (a) to have an interest or prospective interest in the HMO,
- (b) to be a resident of the HMO, or
- (c) to be otherwise sufficiently concerned with the information contained in the entry.

(8B) In subsection (8A), an “interest” is—

- (a) a freehold or leasehold estate;
- (b) a mortgage, charge or lien.

(8C) The council must, on the request of any statutory authority—

- (a) make its register available for inspection by the authority;
- (b) supply a certified copy of its register, or of an extract from it, to the authority.’

Minister for Social Development

Amendment 30 [Made]

Clause 62, Page 32, Line 38

After '(8)' insert 'or (8C)'

Minister for Social Development

Amendment 31 [Made]

Clause 62, Page 32, Line 39

After 'an' insert 'entry in or other'

Minister for Social Development

Amendment 32 [Made]

Clause 67, Page 36, Line 14

Leave out from 'unless' to end of line 16

Minister for Social Development

Amendment 33 [Made]

New Clause

After clause 73 insert -

'Sharing of information between councils

73A.—(1) A council may provide to any other council any information held by the council in connection with its functions under this Act.

(2) Information may be provided under subsection (1) only on the request of the other council; and may be used by that council only in connection with its functions under this Act.

(3) This section ☐—

(a) has effect notwithstanding any restriction on the disclosure of information imposed by any statutory provision or rule of law, and

(b) does not limit the circumstances in which information may be used or provided apart from this section.'

Minister for Social Development

Amendment 34 [Made]

Clause 74, Page 41, Line 17

After '73' insert 'or a request under section 73A'

Minister for Social Development

Amendment 35 [Made]

Clause 75, Page 41, Line 31

After '73' insert 'or 73A'

Minister for Social Development

Amendment 36 [Made]

Clause 78, Page 43, Line 15

Leave out 'the' and insert 'any'

Minister for Social Development

Amendment 37 [Made]

Clause 78, Page 43, Line 18

Leave out 'the' and insert 'any'

Minister for Social Development

Clause 83 [*Question that Clause 83 stand part negatived*]

The Minister for Social Development gives notice of his intention to oppose the question that clause 83 stand part of the Bill.

Minister for Social Development

Amendment 38 [Made]

Clause 86, Page 47, Line 8

After '14(3)' insert 'or paragraph 2 of Schedule 2'

Minister for Social Development

Amendment 39 [Made]

Clause 87, Page 47, Line 21

Leave out 'or paragraph 2(4)'

Minister for Social Development

Amendment 40 [Made]

Clause 88, Page 48, Line 16

After 'accommodation' insert '(but this is subject to subsection (7))'

Minister for Social Development

Amendment 41 [Made]

Clause 88, Page 48, Line 18

Leave out sub-paragraph (iii)

Minister for Social Development

Amendment 42 [Made]

Clause 88, Page 49, Line 5

Leave out ‘, niece or cousin’ and insert ‘or niece’

Minister for Social Development

Amendment 43 [Made]

Clause 88, Page 49, Line 26

At end insert -

‘(7) Where ☐—

(a) a person (“the agent”) has introduced a prospective tenant or other occupier to the owner of accommodation,

(b) the prospective tenant or other occupier enters into a tenancy or other occupation agreement under which periodical payments are to be made in respect of the occupation, and

(c) the agent (acting on behalf of the owner) receives the first of those periodical payments,

then, for the purposes of the definition of “managing agent” in subsection (1), the receipt by the agent of that payment is not to be regarded as the receipt of rent or another payment from that occupier.’

Minister for Social Development

Amendment 44 [Made]

Schedule 1, Page 50, Line 12

Leave out heads (a) and (b)

Minister for Social Development

Amendment 45 [Made]

Schedule 1, Page 50, Line 18

At end insert -

‘(2) A building where the person managing it is ☐—

(a) the Northern Ireland Housing Executive, or

(b) a housing association registered under Part 2 of the Housing (Northern Ireland) Order 1992.’

Minister for Social Development

Amendment 46 [Made]

Schedule 2, Page 52, Line 36

Leave out paragraphs 2 to 6 and insert -

‘2.—(1) The Department must make regulations providing for the giving of notice of the making of HMO applications.

(2) Regulations under sub-paragraph (1) may in particular—

- (a) require the applicant to cause notice of an application to be displayed on or near the HMO in question, or to cause such notice to be published in one or more newspapers circulating in the locality of the HMO;
- (b) permit or require the council to cause such notice to be displayed or published, either at the council’s expense or at the applicant’s expense;
- (c) specify information which must be displayed or published in or together with notice of an application, which may include notice of a right to make representations about the application and of the manner and period in which such representations must be made;
- (d) specify requirements as to the form and manner of notice of an application, and the period for which it must be displayed or published;
- (e) provide (subject to such conditions as may be specified in the regulations) for exceptions from any requirement to display or publish notice, in particular where the council is satisfied that displaying or publishing a notice would be likely to jeopardise the safety or welfare of any persons or the security of any premises;
- (f) provide for the consequences of failing to comply with requirements imposed by the regulations (and such consequences may include permitting or requiring the council to cease to consider the application in question).

3. The council must send a copy of any application for an HMO licence to the statutory authorities.’

Minister for Social Development

Amendment 47 [Made]

Schedule 2, Page 54, Line 29

Leave out ‘paragraph 2, 3 or 5’ and insert ‘regulations under paragraph 2’

Minister for Social Development

Amendment 48 [Made]

Schedule 2, Page 54, Line 34

Leave out from ‘is—’ to end of line 39 and insert ‘is to be set out in, or determined under, regulations made by the Department’

Minister for Social Development

Amendment 49 [Made]

Schedule 2, Page 56, Line 10

Leave out ‘paragraph 2, 3 or 5’ and insert ‘regulations under paragraph 2’

Minister for Social Development

Amendment 50 [Made]

Schedule 2, Page 56, Line 32

Leave out ‘paragraph 2, 3 or 5’ and insert ‘regulations under paragraph 2’

Minister for Social Development

Amendment 51 [Made]

Schedule 2, Page 57, Line 1

Leave out from ‘paragraph’ to ‘5’ on line 2 and insert ‘regulations under paragraph 2’

Minister for Social Development

Amendment 52 [Made]

Schedule 4, Page 64, Line 37

Leave out ‘under section 67’ and insert ‘in accordance with section 67(4)’

Minister for Social Development

Amendment 53 [Made]

Schedule 5, Page 67, Line 12

Leave out ‘under section 67’ and insert ‘in accordance with section 67(4)’

Minister for Social Development