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Mr Alex Maskey
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Alex

HOUSES IN MULTIPLE OCCUPATION (HMO) BILL

I enclose copies of the HMO Bill and accompanying Explanatory and Financial Memorandum on an "*in confidence*" basis pending approval by the Executive Committee to introduce the Bill into the Assembly. I am also enclosing a short summary of the Bill content.

At the Social Development Committee meeting of 14 May 2015, officials briefed members on the Bill proposals. I understand that the committee was very supportive of the proposals.

My intention is to bring the Bill before the Executive for consideration at its meeting of 11 June. If agreed by the Executive, the Bill can then be introduced into the Assembly shortly thereafter.

Yours sincerely

MERVN STOREY MLA
Minister for Social Development

SHORT SUMMARY OF KEY POINTS ON NEW HMO BILL

- The consultation on the Fundamental review of Houses in Multiple Occupations was undertaken in late 2012 and officials reported the outcome of that exercise to the Social Development Committee on 25 April 2013. This concluded that there are a number of weaknesses in the existing regulatory system. For example, one major downfall being the difficulty in identifying houses in multiple occupation (HMOs).
- HMOs are an important part of the private rented sector and can provide affordable housing for some of the most vulnerable and disadvantaged groups in society, or those on low incomes, students and migrant workers. Because of the higher risks of living in an HMO, they are subjected to a higher level of regulation than other rented housing. Standards of physical accommodation and management in HMOs are also issues of concern. This is why the Department is bringing forward new stronger legislation.
- The new regulatory scheme will transfer this responsibility for regulating HMOs to councils. As the new provisions in the Bill will include a new definition, a mandatory licensing scheme and updated physical and management standards. Council environmental health departments already lead on all other aspects of regulation of the private rented sector, this transfer will sit neatly with those functions.
- The new Bill includes a power to open statutory information sharing gateways with a number of government and non government organisations and bodies. These gateways will provide for relevant information to be sent from appropriate sources to assist in the identification and regulation of HMOs.
- This revised system of regulation will allow the targeting of houses in a way that is proportionate to the risk presented and will address the added risk to safety associated with living in HMOs.

- Latest figures provided by the Housing Executive shows there are 5,225 HMOs registered, leaving approx 500 currently not registered. Many of these are in the Holylands and in the Coleraine University area. The number of people living in this tenure could be as many as 30,000.
- The purpose of introducing HMO licensing in Northern Ireland is to improve standards by ensuring that a landlord or any agent is a fit and proper person, and by checking the standards of physical accommodation as well as tenancy management standards. This provides protection to HMO tenants and their neighbours by making sure accommodation is safe, well managed and of good quality.
- New proposals to address the weaknesses identified in the current HMO legislation will introduce:

A new HMO Definition - the introduction of a new HMO definition and associated exemptions will provide clarification and guidance on what is or is not to be classed as an HMO.

A Licensing Scheme – the introduction of mandatory licensing of HMOs will ensure higher physical and management standards are adopted before an HMO can be classed as licensed. This will in turn lead to a more professional provision of such accommodation making it more attractive to prospective tenants.

A Fit and Proper Person Test – the introduction of a fit and proper person test, similar to that being successfully operated in Scotland, will ensure that those people who are unsuitable to hold a licence and operate an HMO are identified at the earliest opportunity and prevented from doing so.

New Enforcement Powers – the introduction of greater and more comprehensive enforcement powers will ensure that any deviation from the licensing system is penalised in a timely and proportionate manner. Fixed penalty notices for example will avoid the need to proceed directly to court action for lesser offences. Previously,

the need to take all offenses to court meant that any potential penalty may have been delayed for months, due to the protracted nature of court action, exacerbating the tenant's situation by allowing the breach to continue until the court action was concluded.

Other New Powers – The new Bill will also create a power to issue a prohibition notice on a property if the council deems there to be an imminent risk to the health and safety of the occupants. In addition the new Bill will also create a power to open statutory information sharing gateways to assist in the identification and regulation of HMOs.

Officials further briefed the Committee on the HMO Bill on 14 May and subsequently provided a written response to the queries raised.

It is our intention to publish guidance for the licensing scheme for councils and landlords to help them meet the requirements of the regulations.

Houses in Multiple Occupation Bill

[20/5/2015 11:59:10]

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B I L L

TO

Make provision for and in connection with the licensing of houses in multiple occupation.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

PART 1

MEANING OF “HOUSE IN MULTIPLE OCCUPATION”

Meaning of “house in multiple occupation” [j02]

1.—(1) A building or part of a building is a “house in multiple occupation” if—

- 5 (a) it is living accommodation (see section 2),
(b) it is occupied by 3 or more persons as their only or main residence (see section 3),
(c) those persons form more than two households (see section 4), and
10 (d) rents are payable or other consideration is to be provided in respect of the occupation by at least one of those persons of the living accommodation.

(2) But a building or part of a building within subsection (1) is not a house in multiple occupation if it is listed in Schedule 1 (exceptions).

15 (3) The Department may by regulations amend this section, sections 2 to 4 and Schedule 1 as it considers appropriate in order to provide that any building or part of a building of a description set out in the regulations is or is not to be a house in multiple occupation for the purposes of this Act, or for such purposes of this Act as are specified in the regulations.

Definition of living accommodation [j02E]

2.—(1) A building or part of a building is living accommodation if—

- 20 (a) it is, or is capable of being, occupied as a separate dwelling, or

(b) both of the following conditions are met—

(i) it is, or forms part of, any building or group of buildings which is in single ownership, and

(ii) its occupants share one or more basic amenities with each other.

5 (2) For the purposes of subsection (1)(b)(i), a building or group of buildings is in “single ownership” if the whole of the building, or all the buildings in the group, are owned—

(a) by one person, or

10 (b) by one person and that person’s associates (as defined in section 88), whether jointly or severally.

(3) For this purpose, if—

(a) a building or part of a building is owned by a body corporate, and

(b) the body corporate is controlled by a director of it (within the meaning given by section 255 of the Companies Act 2006),

15 the building or part is to be treated as being owned by the director as well as by the body corporate.

(4) For the purposes of subsection (1)(b)(ii), the “basic amenities” are—

(a) a toilet,

(b) personal washing facilities, and

20 (c) facilities for the preparation or provision of cooked food.

(5) References in this Act to “living accommodation” include—

(a) any part of the living accommodation (including its structure and exterior) which is, and any common facilities relating to it which are, owned in common with others, and

25 (b) any yard, garden, garage, out-house or other area or structure which is, or which is capable of being, occupied or enjoyed together with the living accommodation or any part of it (solely or in common with others).

Cases where person is treated as occupying accommodation as only or main residence [j02A]

30 **3.—**(1) This section sets out some cases where a person is, or is not, to be treated for the purposes of this Act as occupying living accommodation as their only or main residence.

(2) A person who occupies living accommodation during term time for the purpose of undertaking a full-time course of further or higher education is to be treated, at all times during that person’s residence, as occupying that accommodation as the person’s only or main residence.

(3) A person who occupies living accommodation that is—

(a) managed by a voluntary organisation, and

40 (b) used wholly or mainly for the temporary accommodation of persons who have left their homes as a result of—

(i) physical violence or mental abuse, or

(ii) threats of such violence or abuse,

is to be treated as occupying that accommodation as the person's only or main residence.

(4) The Department may make regulations setting out other circumstances in which a person is, or is not, to be treated as occupying living accommodation as his or her only or main residence.

Persons who are members of the same household [j02B]

4.—(1) For the purposes of this Act persons are members of the same household only if—

- (a) they are members of the same family (as defined in section 88),
- 10 (b) they are to be treated as being members of the same household by virtue of subsections (2) and (3), or
- (c) their circumstances are of a description set out in regulations made by the Department (as to which, see subsections (4) and (5)).

(2) Subsection (3) applies if—

- 15 (a) a person (A) is engaged to provide domestic help or personal care to another person (B), and
- (b) the terms of that engagement require A to occupy the same living accommodation as B.

(3) A is to be treated as being a member of the same household as—

- 20 (a) B, and
- (b) any member of B's family who also occupies that living accommodation.

(4) Regulations under subsection (1)(c) may, in particular, provide that a group of persons are to be regarded as being members of the same household only where each member of the group has a prescribed relationship, or at least one of a number of prescribed relationships, to any one or more of the others.

(5) In subsection (4) "prescribed relationship" means any relationship of a description set out in the regulations.

Notice regarding evidence of household [j02C]

5.—(1) This section applies if—

- 30 (a) it appears to a council that living accommodation is occupied by 3 or more persons, and
- (b) the council believes that the occupants form more than two households.

(2) The council may serve a notice which—

- (a) states the council's belief mentioned in subsection (1)(b),
- 35 (b) states the grounds for that belief,
- (c) invites the person on whom the notice is served to supply to the council, within the period of 28 days beginning with the date of service of the notice, evidence that the occupants form no more than two households, and
- (d) informs the person of the effect of subsections (4) and (5).

(3) The notice may be served on any or all of the following (as the council considers appropriate)—

- (a) any person appearing to the council to be the owner of the accommodation;
 - (b) any person appearing to the council to be a managing agent of the accommodation;
 - 5 (c) the occupants of the accommodation.
- (4) Subsection (5) applies if, after a council has served a notice under subsection (2)—
- (a) no such evidence is provided within the period mentioned in subsection (2)(c), or
 - 10 (b) such evidence is provided within that period, but it is not sufficient to cause the council to change its belief.
- (5) Where this subsection applies—
- (a) the council may serve a notice (a “household notice”) stating that the condition set out in paragraph (a) or, as the case may be, paragraph (b) of
 - 15 subsection (4) is met, and
 - (b) as from the date of service of that notice, the living accommodation is to be treated as if the occupants formed more than two households.
- (6) A household notice must be served on all the persons on whom the notice under subsection (2) was served.
- 20 (7) Subsection (5)(b) ceases to apply if (whether or not as a result of an appeal under section 67) the council ceases to hold the belief mentioned in subsection (1)(b).

Notice regarding continuation of occupation [j02D]

- 6.—(1) This section applies if—
- 25 (a) it appears to a council that living accommodation—
 - (i) has been a house in multiple occupation, but
 - (ii) has ceased to be so because the number of occupants has reduced below 3, and
 - (b) the council believes that the accommodation is likely to become a house in
 - 30 multiple occupation again within 4 months of that cessation.
- (2) The council may serve a notice (a “continuation notice”) which—
- (a) states the council’s belief mentioned in subsection (1)(b),
 - (b) states the grounds for that belief, and
 - (c) informs the person on whom the notice is served of the effect of
 - 35 subsections (4) and (5).
- (3) The notice may be served on any or all of the following (as the council considers appropriate)—
- (a) any person appearing to the council to be the owner of the accommodation;
 - 40 (b) any person appearing to the council to be a managing agent of the accommodation;
 - (c) the occupants of the accommodation.

(4) A continuation notice has effect for a period of 4 months beginning with the date on which it is served (but this is subject to subsections (7) and (8)).

(5) During that period, the accommodation is to be treated as if it were an HMO for the purposes of this Act, except for the purposes of the following sections—

- 5 (a) section 5 (service of household notice);
- (b) sections 15 to 17 (service and extension of temporary exemption notice);
- (c) sections 44 to 48 (service of overcrowding notice and information notice);
- (d) sections 50 to 53 (service of unsuitability notice).

10 (6) A continuation notice must invite the person on whom the notice is served to supply to the council, within the period of 28 days beginning with the date of service of the notice—

- (a) evidence that the accommodation will not become a house in multiple occupation within the period of 4 months beginning with the date on which the notice was served, or
- 15 (b) evidence that, throughout the period of 4 months before the notice was served, the accommodation was not a house in multiple occupation.

(7) If evidence is provided, within the period mentioned in subsection (6), that is sufficient to satisfy the council—

- 20 (a) that the accommodation will not become a house in multiple occupation within the period of 4 months beginning with the date on which the continuation notice was served, or
- (b) that the accommodation was a house in multiple occupation at no time in the period of 4 months before the notice was served,

the council must serve a notice cancelling the continuation notice.

25 (8) If evidence is supplied to the council in response to a continuation notice but the council decides that the evidence is not sufficient to satisfy the council as mentioned in subsection (7), the council must service notice of that decision.

(9) A notice under subsection (7) or (8) must be served on all the persons on whom the continuation notice was served.

30 (10) Subsection (5) ceases to apply if (whether or not as a result of an appeal under section 67) the council ceases to hold the belief mentioned in subsection (1) (b).

PART 2

LICENSING OF HOUSES IN MULTIPLE OCCUPATION

35 *Requirement for and issue of licences*

Requirement for HMOs to be licensed [j06]

7.—(1) Every house in multiple occupation (“HMO”) must be licensed under this Act (unless a temporary exemption notice under section 15 is in effect in respect of it).

40 (2) A licence under this Act (an “HMO licence”) is to be issued by the council for the district in which the HMO is situated.

- (3) An HMO licence must specify—
- (a) the HMO to which it relates,
 - (b) the council which issued it,
 - (c) the number of persons who are authorised by the licence to occupy the HMO as their only or main residence,
 - (d) the owner of the HMO,
 - (e) any managing agent of the HMO, and
 - (f) any conditions which the council has decided to include in the licence under section 14.

10 **Applications for HMO licence [j10]**

8.—(1) An application for an HMO licence is to be made to the council by the owner of the living accommodation in question.

- (2) The council may grant the licence only if it is satisfied that—
- (a) the occupation of the living accommodation as an HMO would not constitute a breach of planning control (see section 9);
 - (b) the owner of the living accommodation, and any managing agent of it, are fit and proper persons (see section 10);
 - (c) the proposed management arrangements for the living accommodation are satisfactory (see section 11);
 - (d) the granting of the licence will not result in overprovision of HMOs in the locality in which the living accommodation is situated (see section 12); and
 - (e) the living accommodation is fit for human habitation and—
 - (i) is suitable for occupation as an HMO (see section 13) by the number of persons to be specified in the licence as mentioned in section 7(3)(c), or
 - (ii) can be made so suitable by including conditions in the licence under section 14.

(3) Schedule 2 makes provision about the procedural requirements relating to an application for an HMO licence.

30 **Breach of planning control [j19]**

9.—(1) For the purposes of section 8(2)(a) (refusal of licence for breach of planning control), “breach of planning control” has the meaning given by section 131 of the Planning Act (Northern Ireland) 2011.

(2) For provisions under which a decision to refuse a licence under section 8(2)

- 35 (a) is treated differently from a refusal on other grounds, see—
- (a) paragraphs 8 to 10 of Schedule 2 (procedure on refusal of application);
 - (b) section 21(2)(b) (effect on existing licence of refusal to renew);
 - (c) section 25 (restriction on making applications after refusal);
 - (d) section 67(1)(d) and (i) (appeals).

Fit and proper persons [j04]

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.

5 (2) A person who is subject to a disqualification order (see section 38) is not a fit and proper person.

(3) In deciding whether any other person (“P”) is a fit and proper person, the council must have regard to—

- (a) the matters mentioned in subsections (4) to (7), and
- 10 (b) any other matter which the council considers to be relevant.

(4) The council must have regard to whether P has—

- (a) committed any offence involving—
 - (i) fraud or other dishonesty,
 - (ii) violence,
 - 15 (iii) drugs, or
 - (iv) a firearm (within the meaning of Article 2(2) of the Firearms (Northern Ireland) Order 2004);
- (b) committed an offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- 20 (c) practised unlawful discrimination in, or in connection with, the carrying on of any business;
- (d) contravened any provision of the law relating to housing or of landlord and tenant law; or
- 25 (e) acted otherwise than in accordance with a code of practice approved under section 63.

(5) The council must have regard to whether any associate or former associate of P has engaged in any of the conduct mentioned in paragraphs (a) to (e) of subsection (4), if it appears to the council that that conduct is relevant to whether P is a fit and proper person.

30 (6) The council must have regard to—

- (a) any anti-social behaviour engaged in by P, and
- (b) P’s conduct as regards any anti-social behaviour—
 - (i) engaged in by the occupants of any living accommodation of which P is or was the owner or managing agent, or
 - 35 (ii) adversely affecting the occupants of any such accommodation.

(7) In subsection (6) “anti-social behaviour” means—

- (a) 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
- 40 (b) using or threatening to use residential premises for immoral or illegal purposes.

(8) If an owner or managing agent is a body (whether incorporated or not), the body is not a fit and proper person if any of the following is not a fit and proper person—

- (a) a director of the body,
- 5 (b) a partner of it, or
- (c) any other person concerned in the management of the body.

Satisfactory management arrangements [j04A]

10 **11.** In deciding for the purposes of section 8(2)(c) whether the proposed management arrangements for the living accommodation are satisfactory, the council must have regard to (among other things)—

- (a) whether any person proposed to be involved in the management has a sufficient level of competence to be so involved,
- (b) whether any person proposed to be involved in the management, other than a managing agent named in the licence, is a fit and proper person (within
15 the meaning given by section 10) to be so involved, and
- (c) whether any proposed management structures and funding arrangements are suitable.

Overprovision [j18]

20 **12.—**(1) In considering whether the granting of a licence will result in overprovision in a locality for the purposes of section 8(2)(d), the council must have regard to—

- (a) the number and capacity of licensed HMOs in the locality,
- (b) the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need, and
- 25 (c) such other matters as the Department may by regulations specify.

(2) It is for the council to determine the localities within its district for the purposes of this section.

Suitability of living accommodation for multiple occupation [j05]

30 **13.—**(1) In determining for the purposes of section 8(2)(e) whether living accommodation is, or can be made, suitable for occupation as an HMO by the specified maximum number of persons, the council must have regard to—

- (a) the matters set out in subsection (2),
- (b) the minimum standards set under subsection (3) for the accommodation's condition, facilities or equipment for that number of persons, and
- 35 (c) the extent (if any) to which the accommodation falls short of the provisions of building regulations.

(2) The matters referred to in subsection (1)(a) are—

- (a) the accommodation's location,
- (b) the type and number of persons likely to occupy it,
- 40 (c) the safety and security of persons likely to occupy it, and
- (d) the possibility of undue public nuisance.

(3) The Department may by regulations set minimum standards which must be met in relation to the matters set out in subsection (5) in order for accommodation to be regarded as suitable for occupation by prescribed numbers of persons.

(4) In having regard to those minimum standards, the council—

- 5 (a) cannot be satisfied that the accommodation is suitable if the council considers that the accommodation fails to meet the standards, but
(b) may decide that the accommodation is not suitable for occupation by that number even if the accommodation does meet the standards.

(5) The matters referred to in subsection (3) are—

- 10 (a) natural and artificial lighting,
(b) ventilation,
(c) installations for the supply of water, gas and electricity and for sanitation, space heating and heating water,
(d) personal washing facilities,
15 (e) facilities for the storage, preparation and provision of food,
(f) any requirements about the display of signs relating to fire exits or other matters,
(g) interior and exterior decoration,
(h) safety equipment (including fire safety equipment), and
20 (i) disposal of refuse.

(6) The standards that may be set under subsection (3) include standards as to the number, type and condition of facilities or equipment which should be available in prescribed circumstances.

(7) In subsections (3) and (6), “prescribed” means prescribed in the regulations.

25 (8) In relation to any application for an HMO licence, the “specified maximum number of persons” means—

- (a) the number of persons specified in the application as the proposed maximum for the accommodation, or
(b) if the council decides to specify a lower number in the licence, that lower
30 number.

Licence conditions

Licence conditions [j08]

14.—(1) An HMO licence may include such conditions as the council considers appropriate for regulating any or all of the following—

- 35 (a) the management, use and occupation of the HMO;
(b) its condition and contents.

(2) The conditions may, in particular, include—

- (a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the HMO by persons occupying it;
40 (b) conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the HMO;

- (c) conditions requiring facilities and equipment to be made available in the house for the purpose of making it suitable for occupation as an HMO (within the meaning of section 13);
 - (d) conditions requiring such facilities and equipment to be maintained in repair and proper working order;
 - (e) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to be so maintained, that the works are carried out within such period or periods as may be specified in, or determined under, the licence;
 - (f) conditions requiring the owner of the HMO or the managing agent of it (if any) to attend training courses in relation to any code of practice approved under section 63.
- (3) The Department may make regulations requiring councils to include in HMO licences such conditions as are specified in the regulations.
- (4) An HMO licence may include a condition imposing a restriction or obligation on—
- (a) the owner of the HMO or the managing agent of it (if any);
 - (b) any class of persons described by reference to the HMO (such as occupants of it or visitors to it), whether or not identified by name;
 - (c) any other person named in the condition.
- (5) But an HMO licence may include a condition imposing a restriction or obligation on a person named in it (other than the owner or managing agent) only if that person has consented to the imposition of the restriction or obligation.
- (6) An HMO licence may not include conditions requiring, or intended to secure, any alteration in the terms of any tenancy or other occupancy arrangement under which any person occupies the HMO.
- (7) A condition included in an HMO licence may specify a date from which the condition is to have effect (and such a date may be later, but not earlier, than the date from which the other provisions of the licence have effect).
- (8) If an HMO licence includes a condition which requires work to be carried out in or to any living accommodation, the condition must specify the date by which that work must be completed.
- (9) Any date specified for the purposes of subsection (7) or (8) must be such as would, in the opinion of the council, enable the licence holder to secure compliance with the condition, or to complete the work, before that date.

Temporary exemption from licensing requirement

Temporary exemption notice [j25]

- 15.—(1) This section applies where the owner of an unlicensed HMO makes an application to the council that—
- (a) specifies steps which may be taken with a view to securing that the HMO ceases to be an HMO, and
 - (b) includes a declaration that the owner intends to take those steps.

(2) An application under subsection (1) must be in such form as the council specifies by general notice.

(3) If the council is satisfied—

(a) that the steps specified in the application will have the intended effect, and

5 (b) that the owner intends to take them,

it may issue a notice (a “temporary exemption notice”) in respect of the HMO.

(4) A temporary exemption notice may include safety or security requirements (see section 17).

(5) The council must—

10 (a) if it decides to issue a temporary exemption notice, serve that notice on the owner and the occupants of the HMO;

(b) otherwise, serve on the owner and the occupants notice of its decision not to do so.

15 (6) An HMO is not required to be licensed under this Act during the period for which a temporary exemption notice has effect in respect of it.

(7) A temporary exemption notice has effect for—

(a) the period of 3 months beginning with the date on which it is served, or

(b) such longer period as may be granted under section 16.

Extension of temporary exemption notice [j25A]

20 **16.**—(1) This section applies if the council is satisfied, on the application of the owner, that there are special circumstances that justify the extension of the period for which a temporary exemption notice has effect.

(2) The council may grant an extension for such period, not exceeding 3 months, as it considers appropriate.

25 (3) Only one such extension may be granted.

(4) The council must serve notice of its decision under this section on the owner and the occupants of the HMO.

Safety and security requirements [j26]

30 **17.**—(1) A temporary exemption notice may include requirements that the owner of the HMO carry out such work in or to the HMO as the council considers appropriate for the purpose of improving the safety or security of the HMO’s occupants during the period for which the notice has effect.

(2) If a notice does so, it must specify—

(a) the work to be carried out, and

35 (b) a date by which the work must be completed.

(3) Different dates may be specified for different works.

(4) A date specified under subsection (2) must not be earlier than the date by which the council reasonably considers that the work can be completed.

40 (5) A notice which requires work to be carried out may also specify particular steps which the council requires to be taken in carrying out that work.

(6) Part 1 of Schedule 3 applies to a temporary exemption notice that includes a requirement under this section.

Revocation of temporary exemption notice [j26A]

5 **18.**—(1) If the council is satisfied that the owner of the HMO has failed to comply with any requirement included in a temporary exemption notice under section 17, the council may revoke the notice.

(2) A council that revokes a notice must serve on the owner and the occupants notice of its decision to do so.

(3) A revocation under this section has effect from—

- 10 (a) the last date on which the decision to revoke the notice may be appealed under section 67, or
(b) if such an appeal is made, the date on which the appeal is finally determined.

Duration and renewal

15 **Duration of HMO licence [j09]**

19.—(1) An HMO licence has effect from—

- (a) the date on which notice of the decision to grant it is served under paragraph 16 of Schedule 2, or
(b) such later date as may be specified in the licence.

20 (2) An HMO licence has effect for—

- (a) 5 years, or
(b) such shorter period, of not less than 6 months, as may be specified in the licence.

25 (3) Subsections (1) and (2) do not apply to a licence which is treated as having been granted in accordance with paragraph 15(6) of Schedule 2.

(4) Such a licence—

- (a) has effect from the date by which the council was required by that paragraph to determine the application, and
(b) has effect for 1 year.

30 (5) Subsections (2) and (4)(b) are subject to the following provisions, which provide for the date on which a licence is to cease to have effect in certain circumstances—

- 35 (a) section 21 (effect on existing licence where application is made to renew);
(b) section 23 (revocation of licence);
(c) section 27 (surrender of licence);
(d) section 28 (change of ownership of property);
(e) section 29 (death of licence holder).

Renewal of licence [j09A]

20.—(1) Where the holder of an HMO licence makes an application in accordance with this section for it to be renewed, the council may renew the licence.

5 (2) An application to renew a licence must be made before the licence ceases to have effect.

(3) The provisions of this Part apply to applications to renew a licence (and decisions on such applications) as they apply to first applications for a licence (and decisions on such applications).

10 (4) But sections 8(2)(d) and 12 (overprovision) do not apply to applications to renew.

Application to renew: effect on existing licence [j09B]

21.—(1) Where an application to renew a licence is made in accordance with section 20, the existing licence has effect until the date mentioned in subsection
15 (2).

(2) That date is—

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

20 (b) if the council refuses the application solely because it is not satisfied as mentioned in section 8(2)(a) (planning control)—

(i) the date on which the existing licence would cease to have effect if the application to renew it had not been made, or

(ii) such later date as the council may specify as being reasonable in the circumstances;

25 (c) if the council refuses the application on any other ground, the latest of the following dates—

(i) the last date on which the decision to refuse the application may be appealed under section 67;

30 (ii) if such an appeal is made, the date on which the appeal is finally determined;

(iii) the date on which the existing licence would cease to have effect if the application to renew it had not been made.

(3) If the council decide to specify a date under subsection (2)(b)(ii), the council must serve notice of that decision (including the date specified) on—

35 (a) the owner, and

(b) the statutory authorities.

(4) This section is subject to the following provisions, which provide for the date on which a licence is to cease to have effect in certain circumstances—

(a) section 23 (revocation of licence);

40 (b) section 27 (surrender of licence);

(c) section 28 (change of ownership of property);

(d) section 29 (death of licence holder).

Variation and revocation

Variation of licences [j14]

22.—(1) The council may vary an HMO licence in any of the following ways—

- 5 (a) varying the number of persons who are authorised by the licence to occupy the HMO;
- (b) removing, adding or substituting the managing agent of the HMO;
- (c) removing, adding or varying any conditions included in the licence.

(2) The council may vary a licence under this section—

- (a) on the application of the licence holder,
- 10 (b) on the application of any person named in the licence as a person on whom a restriction or obligation is imposed under section 14, or
- (c) on the council's own initiative.

Revocation of licences [j15]

23.—(1) The council may revoke an HMO licence if it is satisfied that—

- 15 (a) the owner of the HMO, or any managing agent of it (whether or not named in the licence), is not a fit and proper person (see section 10);
- (b) the management arrangements for the HMO are not satisfactory (see section 11);
- (c) the HMO is not fit for human habitation;
- 20 (d) the HMO is not suitable for occupation (within the meaning of section 13) by any number of persons and cannot be made suitable by varying the licence to include conditions under section 14;
- (e) any of the following persons has committed a serious breach of a condition of the licence—
- 25 (i) the owner or managing agent of the HMO;
- (ii) any person named in the licence as a person on whom a restriction or obligation is imposed under section 14; or
- (f) there has been more than one breach of the conditions of the licence.

(2) For the purposes of subsection (1), it does not matter whether the council has
30 taken any other action, or whether criminal proceedings have been commenced, in respect of the circumstances in question.

Variation and revocation: procedure [j15A]

24. Schedule 4 makes provision about the procedure for varying or revoking an HMO licence.

35 *Other provision about licences*

Restriction on applications [j07]

25.—(1) This section applies where a council refuses to grant an HMO licence, except where the refusal is solely because the council is not satisfied as mentioned in section 8(2)(a) (planning control).

(2) Where the refusal is on the ground that any person is not a fit and proper person (see sections 8(2)(b) and 11(b)), that person is to be regarded as not being a fit and proper person for the purposes of any application for an HMO licence made in the restricted period.

5 (3) Where the refusal is on one or both of the grounds mentioned in section 8(2) (d) and (e) (overprovision, and accommodation not habitable or not suitable for HMO), the council may not consider any application for an HMO licence in relation to the living accommodation in question made in the restricted period.

(4) The “restricted period” is the period of 1 year beginning with the date on
10 which notice of refusal is served under paragraph 16 of Schedule 2.

(5) This section does not prevent the council from considering an application made in the restricted period if the council is satisfied that there has been a material change of circumstances.

Joint licence holders [j11]

15 **26.**—(1) This section applies where living accommodation is owned jointly by two or more persons.

(2) An application for an HMO licence may be made by, and an HMO licence may be granted to—

- (a) any one of those owners, or
- 20 (b) any two of more of those owners jointly.

(3) In a case falling within subsection (2)(b), any reference in this Act to the “owner” of the accommodation is a reference to the owners in question; and in particular—

- 25 (a) any requirement to be fulfilled by the owner must be fulfilled by all of them, and
- (b) anything required to be done in relation to the owner must be done in relation to all of them.

(4) Where, in the case of a licensed HMO, there is a transfer of ownership in which—

- 30 (a) one or more joint licensees (but not all of them) ceases to be an owner of the HMO, and
- (b) there is no new owner,

the licence is to be treated as being held, from the date of the transfer, by the remaining owner or owners.

35 (5) In subsection (4)—
“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.

40 (6) Where one or more joint licensees (but not all of them) apply to the council to be removed as such, the council must vary the licence accordingly.

(7) Where a licence is varied under subsection (6), the council must serve a copy of the licence as varied on each joint licensee and on each person who was a joint licensee before the variation.

Surrender of HMO licence [j17]

27.—(1) The holder of an HMO licence may surrender the licence by giving notice to the council to that effect.

5 (2) Notice under subsection (1) is to be in such form as the council may specify by general notice.

Change of ownership: effect on licence [j12A]

28.—(1) A licence may not be transferred to another person.

(2) Accordingly, where—

- 10 (a) there is a transfer of ownership of a licensed HMO, and
(b) as a result of the transfer there is a new owner (or more than one),
the licence ceases to have effect on the date of the transfer.

(3) In subsection (2)—

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

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

Death of sole licence holder: effect on licence [j13]

29.—(1) Where a sole licensee dies, the HMO licence—

- 20 (a) is to be treated as being held, from the date of death, by the licensee’s personal representatives, but
(b) ceases to have effect 3 months after that date.

(2) The council may, on the application of the personal representatives of the licensee, extend the period mentioned in subsection (1)(b) if the council considers that it is reasonable to do so for the purpose of winding up the licensee’s estate.

25 (3) An application under subsection (2) must be made within the period mentioned in subsection (1)(b).

(4) The council must serve on the personal representatives notice of its decision under subsection (2).

30 (5) Subsections (1)(b) and (2) are subject to sections 23 (revocation), 27 (surrender) and 28 (transfer of ownership), which provide for a licence in certain circumstances to cease to have effect earlier than as provided by this section.

PART 3

ENFORCEMENT OF LICENSING REQUIREMENTS

Offences

Unlicensed HMO [j20A]

35 30.—(1) The owner of an HMO commits an offence if—

- (a) the HMO is required to be licensed under section 7 but is not so licensed,
and
(b) the owner does not have a reasonable excuse for not having a licence.

(2) If—

- (a) an HMO is required to be licensed under section 7 but is not so licensed,
 - (b) any person, acting as an agent for the owner of an HMO, does anything that the agent knows will permit or facilitate the occupation of the HMO by any other person, and
 - (c) the agent does not have a reasonable excuse for doing so,
- the agent commits an offence.

(3) The owner of an HMO commits an offence if—

- (a) the HMO is required to be licensed under section 7 but is not so licensed, and
- (b) the owner authorises a person to act as mentioned in subsection (2)(b).

(4) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction—

- (a) to a fine not exceeding £20,000, and
- (b) to a further fine not exceeding £50 for every day or part of a day after conviction on which the HMO is required to be licensed under section 7 but is not so licensed.

(5) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding £10,000.

20 Exceeding licensed occupancy or breach of licence conditions [j20B]

31.—(1) If the number of persons occupying a licensed HMO exceeds the number authorised by the licence and—

- (a) the owner or managing agent of the HMO has done anything that permits or facilitates the excessive occupation, or
- (b) the owner or agent knows, or ought reasonably to know, that the HMO is so occupied and does not take such steps as are reasonably necessary to ensure that the excessive occupation ceases,

the owner or agent (as the case may be) commits an offence.

(2) If—

- (a) a condition in an HMO licence imposes a restriction or obligation on the owner or managing agent of the HMO or any other person named in the condition,
- (b) that person breaches the condition at a time when the HMO is required to be licensed under section 7, and
- (c) the person does not have a reasonable excuse for breaching the condition,

the person commits an offence.

(3) If—

- (a) a condition in an HMO licence imposes a restriction or obligation on any person (whether or not named in the licence),
- (b) any person breaches the condition at a time when the HMO is required to be licensed under section 7,

(c) the owner or managing agent of the HMO either permits the breach or did not take such steps as are reasonably necessary to secure that the condition was not breached, and

5 (d) the owner or agent does not have a reasonable excuse for permitting the breach or for failing to take those steps,

the owner or agent (as the case may be) commits an offence.

(4) A person guilty of an offence under subsection (1) is liable on summary conviction—

(a) to a fine not exceeding £20,000, and

10 (b) to a further fine not exceeding £50 for every day or part of a day after conviction on which the excessive occupation continues.

(5) A person guilty of an offence under subsection (2) or (3) is liable on summary conviction to a fine not exceeding £10,000.

Untrue claim that HMO is licensed [j20C]

15 **32.**—(1) A person who is the owner or managing agent of an HMO commits an offence if the person—

(a) claims that an HMO is licensed at a time when it is not licensed, and

(b) does not have a reasonable excuse for making that claim.

20 (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding £10,000.

Agents not named in licence [j20D]

33.—(1) The owner of a licensed HMO commits an offence if—

(a) the owner authorises any person to do anything that permits or facilitates the occupation of the accommodation as an HMO by any other person, and

25 (b) the person so authorised is not named in the licence as managing agent of the HMO.

(2) A person (“A”) commits an offence if—

30 (a) acting as an agent for the owner of a licensed HMO, A does anything that A knows will permit or facilitate the occupation of the accommodation as an HMO by any other person,

(b) A is not named in the licence as managing agent of the HMO, and

(c) A does not have a reasonable excuse for doing so.

(3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding £10,000.

35 **Reasonable excuse [j21]**

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

(2) This section does not limit the circumstances which may amount to a reasonable excuse apart from this section.

40 (3) For the purposes of section 30(1), the owner of an HMO has a reasonable excuse for not having a licence if—

- (a) an HMO licence held by the owner in respect of the HMO has been revoked, and
- (b) the owner has taken reasonable steps with a view to securing that the living accommodation in question ceases to be an HMO which requires to be licensed, but
- (c) despite having taken those steps, the owner is unable to stop it from being such an HMO without breaching the terms of any tenancy or other occupancy arrangement under which any person occupied it on the day on which the licence was revoked.
- (4) For the purposes of section 31(2) and (3), the owner of an HMO has a reasonable excuse for breaching a condition, or for permitting such a breach, if—
- (a) the owner has taken reasonable steps with a view to securing that the condition is not breached, but
- (b) despite having taken those steps, the owner cannot secure compliance with the condition without breaching the terms of any tenancy or other occupancy arrangement under which any person occupied the HMO on the day on which the condition first had effect.

Rectification of breaches of conditions

Power to require rectification of breach of condition [j27A]

- 35.—(1) This section applies where the council is satisfied that—
- (a) a condition in an HMO licence has been breached and the breach is ongoing or has not been rectified, or
- (b) a condition in an HMO licence is likely to be breached.
- (2) It does not matter whether the council has taken any other action, or whether criminal proceedings have been commenced, in respect of the breach or anticipated breach.
- (3) The council may serve on the owner of the HMO a notice (a “rectification notice”) which requires the owner to take such action, specified in the notice, as the council considers appropriate for the purpose of rectifying or (as the case may be) preventing the breach.
- (4) The action which may be specified includes the carrying out of work in or to the HMO.
- (5) The notice must specify a date by which the action must be taken.
- (6) Different dates may be specified for different actions.
- (7) A date specified under subsection (5) must not be earlier than the date by which the council reasonably considers that the action can be taken.
- (8) A notice which requires work to be carried out may also specify particular steps which the council requires to be taken in carrying out that work.
- (9) Where the action specified in a rectification notice is or includes the carrying out of work in or to the HMO, Parts 1 and 2 of Schedule 3 apply to the notice.

Revocation of rectification notice [j27D]

- 36.—(1) The council—

- (a) may revoke a rectification notice, and
- (a) must do so if it is satisfied that the owner has complied with the requirement (or all the requirements) in the notice.
- (2) A notice may be revoked under this section—
 - 5 (a) on the application of the owner, or
 - (b) on the council's own initiative.
- (3) The council must serve the following on the owner and the occupants of the HMO—
 - (a) notice of any revocation under this section;
 - 10 (b) if the owner applies for a revocation but the council decides to refuse it, notice of that refusal.

Failure to comply with rectification notice [j27C]

- 15 **37.**—(1) If the owner of an HMO fails to take any action specified in a rectification notice by the date specified in relation to that action, the owner commits an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding £10,000.
- (3) In determining the seriousness of an offence under subsection (1), regard is to be had to the following matters (as well as to the seriousness of the failure to take the action specified in the rectification notice)—
 - 20 (a) the seriousness of the breach of the condition (if any) which resulted in the issuing of the rectification notice, and
 - (b) whether any such breach amounted to an offence under section 31(2) or (3).
- 25 (4) Subsection (3) applies—
 - (a) to a court for the purposes of sentencing, and
 - (b) to a council in determining the amount of a fixed penalty under section 64.

Orders of the court: revocation and disqualification

Revocation orders and disqualification orders [j36A]

- 30 **38.**—(1) This section applies where a court convicts—
 - (a) any person of an offence under section 30, 31, 32 or 33;
 - (b) any person of an offence under section 37(1);
 - (c) any person of an offence under section 60;
 - (d) an owner or managing agent of any living accommodation of an offence under section 79(5) or 81(4) in relation to that accommodation;
 - 35 (e) any person of an offence under paragraph 17 of Schedule 2 (false statement in connection with application for HMO licence).
- (2) The court may (in addition to any other order it makes)—
 - 40 (a) revoke any HMO licence having effect in relation to the living accommodation in question;

- (b) where the convicted person is the owner of the accommodation, disqualify the person from holding an HMO licence;
- (c) where the convicted person is the managing agent of the accommodation, disqualify the person from being able to act as a managing agent in relation to any HMO.

(3) Where the convicted person is a body (whether incorporated or not), the court may disqualify any director, partner or other person concerned in the management of the body in the same way in which it may disqualify the body.

(4) The court may disqualify a person under subsection (3) whether or not it disqualifies the convicted person.

(5) A disqualification order is to have effect for such period, not exceeding 5 years, as the court specifies in the order (but this is subject to sections 39 and 40).

Revocations and disqualifications: appeals [j36B]

39.—(1) A person may appeal against a revocation order or disqualification order in the same manner as the convicted person may appeal against sentence.

(2) The court which made a revocation order or disqualification order may suspend its effect pending such an appeal.

Discharge of disqualification orders [j36C]

40.—(1) The court which made a disqualification order may discharge the order with effect from such date as the court may specify.

(2) Such a discharge is to be made on the application of the person disqualified.

(3) No such discharge is to be made unless the court is satisfied that there has been a change in circumstances which justifies the discharge.

(4) No application under this section may be made during the first year for which a disqualification order has effect.

(5) The court may order the applicant to pay the whole or part of the expenses arising from an application under this section (whether or not the application is granted).

PART 4

STANDARDS OF HOUSING

CHAPTER 1

OVERCROWDING

Definition

Definition of overcrowding [j47A]

41. An HMO is overcrowded for the purposes of this Chapter when the number of persons who sleep in it is such as to contravene—

- (a) the room standard (set out in section 42), or
- (b) the space standard (set out in section 43).

The room standard [j47B]

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 13 or over must sleep in the same room as—

- 5 (a) any person of the opposite sex who is also aged 13 or over, or
 (b) a couple (within the meaning given by section 88(3)(a)).

(2) For this purpose, a room is available as sleeping accommodation if it is of a type normally used in the locality either as a bedroom or as a living room.

The space standard [j47C]

10 43.—(1) The space standard is contravened when the number of persons who sleep in the HMO exceeds the permitted number for that HMO.

(2) In determining for the purpose of subsection (1) the number of persons who sleep in an HMO—

- 15 (a) no account is to be taken of a child under the age of one, and
 (b) a child aged 11 or less (but aged at least one) is to be counted as one-half of a person.

(3) To calculate the permitted number for an HMO—

- 20 (a) for each room in the HMO which is available as sleeping accommodation, determine, by reference to what type of room it is, which of Tables 1, 2 and 3 applies to that room,
 (b) determine, by reference to the floor area of the room, the permitted number of persons for that room, and
 (c) add together the permitted numbers for each of the rooms in the HMO.

The total is the permitted number for the HMO.

25 **Table 1 - Rooms which are a bedroom (only)**

<i>Floor area of room</i>	<i>Permitted number for the room</i>
Less than 6.5m ²	No account is to be taken of the room
6.5m ² or more but less than 11m ²	1
11m ² or more but less than 15m ²	2
30 15m ² or more but less than 19.5m ²	3
19.5m ² or more	4 plus one additional person for each 4.5m ² in excess of 19.5m ²

Table 2 - Rooms which are a bedroom and living room

<i>Floor area of room</i>	<i>Permitted number for the room</i>
Less than 10m ²	No account is to be taken of the room
35 10m ² or more but less than 15m ²	1
15m ² or more but less than 19.5m ²	2

19.5m ² or more	3 plus one additional person for each 4.5m ² in excess of 19.5m ²
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Table 3 - Rooms which are a bedroom, living room and kitchen

<i>Floor area of room</i>	<i>Permitted number for the room</i>
Less than 13m ²	No account is to be taken of the room
5 13m ² or more but less than 20.5m ²	1
20.5m ² or more	2 plus one additional person for each 4.5m ² in excess of 20.5m ²

(4) For the purpose of subsection (3), a room is available as sleeping accommodation if it is of a type normally used in the locality as a bedroom, as a bedroom and living room or as a bedroom, living room and kitchen (as the case may be).

(5) The Department may make regulations which specify the manner in which the floor area of a room is to be determined for the purposes of this section.

(6) The regulations may, in particular, provide for the exclusion from computation, or the bringing into computation at a reduced figure, of floor space in a part of the room which is of less than a height specified in the regulations.

(7) A certificate of the council stating the number and floor areas of the rooms in an HMO, and that the floor areas have been determined in the manner specified in regulations, is evidence for the purposes of legal proceedings of the matters stated in it.

Overcrowding notices

Overcrowding notices [j48A]

44.—(1) This section applies where a council believes that—

- (a) an HMO is overcrowded, or
- (b) an HMO is likely to become overcrowded.

(2) The council may issue a notice which complies with section 45 (an “overcrowding notice”).

(3) At least 7 days before issuing an overcrowding notice, the council must serve a notice which—

- (a) states the council’s belief mentioned in subsection (1),
- (b) states the grounds for that belief, and
- (c) invites the person on whom the notice is served to make, within the period of 7 days beginning with the date of service of the notice, representations about the proposal to issue the overcrowding notice.

(4) Notice under subsection (3) must be served on—

- (a) any person appearing to the council to be the owner of the HMO;
- (b) any person appearing to the council to be a managing agent of the HMO.

(5) The council must send a copy of the notice to the occupants of the HMO.

(6) In determining whether to issue an overcrowding notice, the council must have regard to any representations made within the period mentioned in subsection (3)(c).

5 **Contents of overcrowding notice [j48B]**

45.—(1) An overcrowding notice must state, in relation to each room in the HMO and in accordance with section 43—

- (a) what is the permitted number of persons for that room, or
- (b) that the room is unsuitable to be occupied as sleeping accommodation.

10 (2) An overcrowding notice must contain—

- (a) the requirement as to overcrowding generally (set out in section 46), or
- (b) the requirement not to permit new residents (set out in section 47).

15 (3) A council which has issued an overcrowding notice containing the requirement not to permit new residents may, at any time, withdraw that notice and issue instead an overcrowding notice containing the requirement as to overcrowding generally.

20 (4) If the permitted number for a licensed HMO (calculated in accordance with section 43(3)) is less than the number of persons authorised to occupy the HMO as specified in the licence, the overcrowding notice must state that the council proposes to vary the licence accordingly.

(5) Schedule 4 (procedure for varying or revoking licences) does not apply to a proposal to vary a licence under subsection (4); but the proposal does not have effect unless and until the overcrowding notice becomes operative in accordance with paragraph 2 of Schedule 5.

25 (6) An overcrowding notice may state that its operation is suspended in accordance with paragraph 4 of Schedule 5.

Requirement as to overcrowding generally [j48C]

46.—(1) The requirement as to overcrowding generally is that the person on whom the notice is served must refrain from—

- 30
- (a) permitting any room to be occupied as sleeping accommodation otherwise than in accordance with the overcrowding notice, and
 - (b) permitting such number of persons to occupy the HMO as sleeping accommodation that it is not possible to comply with the room standard (see section 42).

35 (2) The reference in subsection (1)(b) to complying with the room standard is to doing so on the assumption that—

- (a) the persons occupying the HMO as sleeping accommodation sleep only in rooms for which a maximum is set by the notice, and
- (b) the maximum set for each room is not exceeded.

40 **Requirement not to permit new residents [j48D]**

47.—(1) The requirement not to permit new residents is that the person on whom the notice is served must refrain from—

- (a) permitting any room to be occupied by a new resident as sleeping accommodation otherwise than in accordance with the notice, and
- (b) permitting a new resident to occupy any part of the HMO as sleeping accommodation if the result of doing is that it is not possible to comply with the room standard (see section 42).

(2) In subsection (1) “new resident” means a person who was not an occupier of the HMO immediately before the notice was served.

(3) The reference in subsection (1)(b) to complying with the room standard is to doing so on the assumption that—

- (a) the persons occupying the HMO as sleeping accommodation sleep only in rooms for which a maximum is set by the notice, and
- (b) the maximum set for each room is not exceeded.

Notice requiring further information [j48G]

48.—(1) A council that issues an overcrowding notice in relation to an HMO may issue a notice under this section (an “information notice”) in relation to that HMO.

(2) An information notice is a notice that requires the person on whom it is served to supply to the council a statement giving all or any of the following particulars—

- (a) the number of individuals who are, on a date specified in the notice, occupying any part of the HMO as sleeping accommodation;
- (b) the names of those individuals;
- (c) the number of households to which the individuals belong;
- (d) the relationships between the individuals, and the household to which each individual belongs; and
- (e) the rooms used by the individuals and households respectively.

(3) An information notice may be served on—

- (a) any person on whom the overcrowding notice is required to be served under paragraph 1 of Schedule 5, or
- (b) any person to whom a copy of the overcrowding notice is required to be sent under that paragraph.

(4) An information notice must require the statement to be supplied—

- (a) in writing, and
- (b) within 7 days of the date of the notice or such longer period as the council may specify in the notice.

(5) An information notice may be combined with, or issued after, the overcrowding notice.

Information notice: supplementary provisions [j48H]

49.—(1) A person commits an offence if the person—

- (a) refuses or fails to provide information as required by an information notice, and
- (b) does not have a reasonable excuse for that refusal or failure.

(2) A person commits an offence if—

- (a) the person provides information in response to an information notice,
- (b) the information is false or misleading in a material particular, and
- (c) the person knows that it is, or is reckless as to whether it is, false or misleading.

(3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(4) Information provided by a person in response to an information notice may be used in criminal proceedings as evidence against the person only where subsection (5) or (6) applies.

(5) This subsection applies where the person is being prosecuted for an offence under Article 7 or 10 of the Perjury (Northern Ireland) Order 1979 (false statutory declarations and other false unsworn statements).

(6) This subsection applies where the person is being prosecuted for any other offence and—

- (a) in giving evidence the person makes a statement inconsistent with the information provided in response to the notice, and
- (b) evidence relating to that information is adduced, or a question about it is asked, by or on behalf of the person.

CHAPTER 2

SUITABILITY FOR NUMBERS IN OCCUPATION

Suitability notice [j28]

50.—(1) This section applies where the council determines that an HMO is not suitable for occupation by the number of persons whom the council knows, or believes, to be occupying it.

(2) The council may issue a notice which complies with section 51 (a “suitability notice”).

(3) In making a determination under subsection (1), the council must have regard to—

- (a) the minimum standards set under section 13(3) for the accommodation’s condition, facilities or equipment for that number of persons, and
- (b) the extent (if any) to which the HMO falls short of the provisions of building regulations.

(4) In having regard to the minimum standards referred to in subsection (3)(a), the council—

- (a) cannot be satisfied that the HMO is suitable if the council considers that it fails to meet the standards, but
- (b) may decide that the HMO is not suitable for occupation by that number even if it does meet the standards.

Contents of suitability notice [j29]

51.—(1) 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.

(2) A suitability notice must contain—

- (a) the general occupancy requirement (set out in section 52(1)), or
- (b) the new residents' occupancy requirement (set out in section 52(2)).

5 (3) A suitability notice may also contain a statement of remedial work (see section 53).

(4) If, in relation to a licensed HMO, the number of persons specified under subsection (1) differs from the number of persons authorised to occupy the HMO as specified in the licence, the suitability notice must state that the council proposes to vary the licence accordingly.

10 (5) Schedule 4 (procedure for varying or revoking licences) does not apply to a proposal to vary a licence under subsection (4); but the proposal does not have effect unless and until the suitability notice becomes operative in accordance with paragraph 2 of Schedule 5.

15 (6) A suitability notice may state that its operation is suspended in accordance with paragraph 4 of Schedule 5.

Occupancy requirements [j29A]

52.—(1) 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.

20 (2) 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.

(3) In this section—

- 25 (a) the "maximum number of persons" is the number stated in the notice in accordance with section 51(1), and
- (b) "new resident" means a person who was not an occupier of the HMO immediately before the notice was served.

Statement of remedial work [j29B]

30 **53.**—(1) A statement of remedial work is a statement of work which the council considers would, if carried out in or to the HMO, make it suitable for occupation by—

- (a) the number of persons whom the council knows or believes to be occupying it, or
- 35 (b) such smaller number of persons as is specified in the statement.

(2) A statement of remedial work must state that, if the work is carried by a date specified in the statement, the suitability notice will be revoked under paragraph 7(3) of Schedule 5.

(3) A date specified under subsection (2)—

- 40 (a) must be not less than 21 days after the date on which the notice takes effect, and

(b) must not be earlier than the date by which the council reasonably considers that the work can be completed.

(4) A statement of remedial work may also specify particular steps which the council requires to be taken in carrying out that work.

5 (5) A statement of remedial work may not specify any fire safety measures within the meaning of the Fire and Rescue Services (Northern Ireland) Order 2006.

(6) Part 1 of Schedule 3 applies to a suitability notice that includes a statement of remedial work.

10

CHAPTER 3

HAZARDS

Definition of hazard [j49A]

54.—(1) For the purposes of this Chapter, there is a “hazard” in an HMO if—

15 (a) there is a risk of harm of a prescribed description to the health or safety of an actual or potential occupier of the HMO, and

(b) the risk arises from a deficiency—

(i) in the accommodation which forms the HMO,

(ii) in any building or land of which that accommodation forms part, or

(iii) in any building or land in the vicinity of that accommodation.

20 (2) It does not matter whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise.

(3) “Prescribed” means prescribed by regulations made by the Department.

Hazard notice [j49B]

25 **55.**—(1) If the council is satisfied that a hazard exists in an HMO, the council may issue a notice which complies with sections 56 and 57 (a “hazard notice”).

(2) A hazard notice may relate to more than one hazard in the same HMO or in the same building containing one or more flats.

30 (3) If the council is satisfied that the hazard (or one of the hazards) in relation to which a hazard notice is issued involves an imminent risk of serious harm to the health or safety of any of the occupiers of the HMO or any other living accommodation, the notice may state—

(a) that it is an “emergency hazard notice”, and

(b) that it is to come into operation immediately.

35 (4) For provisions under which an emergency hazard notice is treated differently from other hazard notices, see—

(a) section 57(3) and paragraph 4(1) of Schedule 5 (suspension of notices);

(b) paragraph 1(2) and (4) of Schedule 5 (service of emergency hazard notices);

(c) paragraph 2(3) of that Schedule (date of operation of such notices).

Contents of hazard notice: prohibitions [j49C]

56.—(1) A hazard notice is a notice imposing such prohibition (or prohibitions) on the use of any premises as the council considers appropriate in view of the hazard or hazards to which the notice relates.

5 (2) The notice must specify—

(a) each prohibition, and

(b) the premises in relation to which each prohibition is imposed.

(3) A hazard notice may impose a prohibition on the use of premises as follows—

10 (a) if the hazard is in an HMO which is not a flat, the notice may impose a prohibition on the use of the HMO;

(b) if the hazard is in a flat or flats, the notice may impose a prohibition on the use of the flat or flats, or on the use of the building containing the flat or flats (or any part of that building) or any external common parts.

15 (4) But a hazard notice may not, by virtue of subsection (3)(b), prohibit use of any part of the building or its external common parts that is not included in the HMO in which the hazard exists, unless the council is satisfied—

(a) that the deficiency from which the hazard arises is situated there, and

20 (b) that it is necessary for such use to be prohibited in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.

(5) A prohibition may prohibit use of the premises, or of any part of the premises, either—

(a) for all purposes, or

25 (b) for any particular purpose,

except (in either case) to the extent to which any use of the premises or part is approved by the council.

As to approvals by the council, see section 59.

30 (6) A prohibition imposed by virtue of subsection (5)(b) may, in particular, relate to—

(a) occupation of the premises or part by more than a particular number of households or persons; or

(b) occupation of the premises or part by particular descriptions of persons.

Contents of hazard notices: other matters [j49D]

35 57.—(1) A hazard notice must specify, in relation to the hazard (or each of the hazards) to which it relates—

(a) the nature of the hazard,

(b) the HMO in which it exists, and

(c) the deficiency giving rise to the hazard.

40 (2) A hazard notice may contain a works requirement (see section 58).

(3) A hazard notice must specify the date on which the notice is made.

(4) A hazard notice (other than an emergency hazard notice) may state that its operation is suspended in accordance with paragraph 4 of Schedule 5.

Works requirement [j49H]

5 **58.**—(1) A works requirement is a requirement that the owner carry out work in or to the HMO or other premises for the purpose of removing the hazard.

(2) A hazard notice that includes a works requirement must specify—

- (a) the work to be carried out, and
- (b) a date by which the work must be completed.

(3) Different dates may be specified for different work.

10 (4) A date specified under subsection (2)(b)—

- (a) must be not less than 21 days after the date on which the notice takes effect, and
- (b) must not be earlier than the date by which the council reasonably considers that the work can be completed.

15 (5) A hazard notice that includes a works requirement must state that, if the work is carried by the date specified in it (or, where more than one date is specified, the last of them), the hazard notice will be revoked under paragraph 7(4) of Schedule 5.

20 (6) A hazard notice that includes a works requirement may also specify particular steps which the council requires to be taken in carrying out that work.

(7) A hazard notice may not require the owner to take any fire safety measures within the meaning of the Fire and Rescue Services (Northern Ireland) Order 2006.

25 (8) Parts 1 and 2 of Schedule 3 apply to a hazard notice that includes a works requirement.

Approvals as to use of premises [j49G]

59.—(1) Any approval of the council for the purposes of section 56(5) must not be unreasonably withheld.

30 (2) If the council refuses to give any such approval, it must notify the person applying for it of—

- (a) the decision,
- (b) the reasons for the decision,
- (c) the right to appeal against the decision under subsection (3), and
- (d) the period within which an appeal may be made.

35 (3) The person applying for the approval may appeal to a court of summary jurisdiction against the decision within the period of 21 days beginning with the date on which the notice under subsection (2) was served.

CHAPTER 4

FURTHER PROVISION ABOUT NOTICES UNDER THIS PART

Offences [j60]

60.—(1) A person commits an offence if the person—

- 5 (a) contravenes a requirement in an overcrowding notice, and
(b) does not have a reasonable excuse for doing so.

(2) A person commits an offence if the person—

- (a) contravenes a general occupancy requirement or a new residents' occupancy requirement in a suitability notice, and
10 (b) does not have a reasonable excuse for doing so.

(3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction—

- (a) to a fine not exceeding £20,000, and
15 (b) to a further fine not exceeding £50 for every day or part of a day after conviction on which the person contravenes the requirement in question.

(4) A person commits an offence if the person—

- (a) knows that a hazard notice has become operative in relation to any specified premises,
20 (b) uses the premises, or permits the premises to be used, in contravention of the notice, and
(c) does not have a reasonable excuse for so using the premises or (as the case may be) permitting them to be so used.

(5) A person guilty of an offence under subsection (4) is liable on summary conviction—

- 25 (a) to a fine not exceeding £20,000, and
(b) to a further fine not exceeding £50 for every day or part of a day after conviction on which the person so uses the premises or permits them to be so used.

30 (6) If the owner of an HMO fails to carry out work specified in a works requirement in a hazard notice by the date specified in relation to that work, the owner commits an offence.

(7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Further provision [j32]

35 61. Schedule 5 makes further provision about notices under this Part.

Houses in Multiple Occupation

PART 5

SUPPLEMENTARY

HMO register

HMO register [j39]

5 **62.**—(1) Every council must keep a register containing the information required by subsections (2) to (4).

(2) The register must contain details of each application for an HMO licence made to the council, including—

- (a) the name of the applicant,
- 10 (b) the address of the living accommodation in question,
- (c) the name of any managing agent specified in the application,
- (d) the date on which the application was made.

(3) The register must contain a note of the council's decision on each application, including in the case of decision to grant a licence—

- 15 (a) the name of the licence holder;
- (b) the number of persons authorised to occupy the HMO (as specified in the licence under section 7(3)(c));
- (c) any conditions included in the licence;
- (d) any variation, revocation or surrender of the licence under section 22, 23
- 20 or 27.

(4) The register must contain a note of—

- (a) any revocation order or disqualification order made in relation to the HMO, its owner or any managing agent of it;
- (b) any Part 4 notice issued in respect of the HMO.

25 (5) The register may contain such other information as the council considers appropriate.

(6) The council must exclude from its register any information which it would otherwise enter in the register, if the council considers that entering the information is likely to jeopardise—

- 30 (a) the safety or welfare of any person, or
- (b) the security of any premises.

(7) The council must make its register available for public inspection—

- (a) at its head office at all reasonable times, and
- (b) in such other manner as the council considers appropriate.

35 (8) The council must supply a certified copy of a register, or of an extract from it, to any person who requests such a copy.

(9) The council may charge a reasonable fee for supplying a copy under subsection (8) (see also section 84 in relation to such fees).

40 (10) A copy of a register, or of an extract from a register, which is certified by an officer of the council to be a true copy is evidence of the matters contained in it.

Code of practice

Code of practice [j41]

- 5 **63.**—(1) The Department may 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.
- (2) The standards laid down in the code may, in particular, relate to—
- (a) the repair, maintenance, cleansing and good order of—
 - (i) all means of water supply and drainage in the house,
 - 10 (ii) all means of escape from fire and all apparatus, systems and other things provided by way of fire precautions,
 - (iii) kitchens, bathrooms and water closets,
 - (iv) sinks and wash-basins,
 - (v) staircases, corridors and passage ways, and
 - (vi) outbuildings, yards and gardens;
 - 15 (b) the making of satisfactory arrangements for the disposal of refuse and litter from the house; and
 - (c) the making of satisfactory arrangements to ensure that all means of escape from fire are kept clear of obstructions.
- (3) The code may—
- 20 (a) specify the persons who are, for the purposes of the code, to be treated as the managers of houses;
 - (b) impose a duty on the person managing the house to cause a copy of the code to be displayed in a suitable position in the house.
- (4) The Department may by regulations—
- 25 (a) approve a modification of a code of practice under this section, or
 - (b) withdraw its approval of such a code or modification.
- (5) The code, and any modification, may be prepared by the Department or by another person.
- (6) The Department may approve a code of practice or a modification of a code only if satisfied that—
- 30 (a) the code or modification has been published (whether by the Department or by another person) in a manner that the Department considers appropriate for the purpose of bringing the code or modification to the attention of those likely to be affected by it, or
 - 35 (b) arrangements have been made for the code or modification to be so published.
- (7) Before approving a code of practice or a modification of a code, the Department must consult—
- 40 (a) persons involved in the management of HMOs, or such persons as appear to the Department to be representative of them, and
 - (b) persons occupying HMOs, or such persons as appear to the Department to be representative of them.

(8) A failure to comply with a code of practice for the time being approved under this section—

- (a) does not of itself make a person liable to civil or criminal proceedings, but
- (b) in accordance with section 10(4)(e), may be taken into account as a relevant matter in deciding whether a person is a fit and proper person for the purposes of this Act.

Fixed penalty as alternative to prosecution

Fixed penalty: service of notice [j22A]

64.—(1) This section applies where an authorised officer of a council has reason to believe that a person has committed an offence under any of the following provisions—

- (a) section 30, 31, 32 or 33;
- (b) section 37(1);
- (c) section 49;
- (d) section 60;
- (e) section 74;
- (f) section 79(5);
- (g) section 81(4);
- (h) paragraph 17 of Schedule 2;
- (i) paragraph 8 of Schedule 3.

(2) The officer may serve on the person a notice which—

- (a) offers the person the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty,
- (b) contains the information required by subsections (3) to (5) and (7),
- (c) contains such other information may be specified in regulations made by the Department, and
- (d) is in such form as the council specifies by general notice.

(3) The notice must give particulars of the circumstances alleged to constitute the offence.

(4) The notice must state the amount of the fixed penalty, which is to be determined by the council but must not exceed—

- (a) in the case of an offence under section 30(1) or (2), 31(1) or 60(1), (2) or (4), £5,000;
- (b) in the case of an offence under section 30(3), 31(2) or (3), 32, 33 or 37(1), £2,500;
- (c) in the case of an offence under section 60(6), 79(5) or 81(4) or paragraph 8 of Schedule 3, £500;
- (d) in the case of an offence under section 49, section 74 or paragraph 17 of Schedule 2, £200.

(5) The notice must state the period during which (in accordance with section 65(1)) proceedings will not be commenced for the offence.

(6) The fixed penalty is to be payable to the council.

(7) The notice must state the arrangements for paying the fixed penalty; and those arrangements must include, at the least, a person to whom and an address at which the fixed penalty may be paid.

5 (8) An “authorised officer” of a council is an officer who is authorised in writing by the council for the purposes of this section.

Fixed penalty: effect of notice [j22B]

65.—(1) Where a notice under section 64 is served on a person in respect of an offence—

10 (a) no proceedings may be commenced against the person for the offence before the end of the period of 14 days, or such other longer period as may be specified in the notice, following the date on which the notice is served; and

15 (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

(2) In any proceedings a certificate which—

(a) purports to be signed on behalf of the clerk of the council, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

20 is evidence of the facts stated.

(3) A council may use amounts paid to it in pursuance of notices under section 64 only for the purposes of its functions under this Act or such other of its functions as may be specified in regulations made by the Department.

Fixed penalty: power to alter amounts [j22C]

25 **66.**—(1) The Department of Justice may by order substitute for any sum specified in section 64(4) such other sum as appears to that Department—

(a) to be justified by a change in the value of money appearing to that Department to have taken place since the passing of this Act or since the last occasion on which an order was made under this section, or

30 (b) to be appropriate to take account of an order which has been made, or is proposed to be made, under Article 17(2) of the Fines and Penalties (Northern Ireland) Order 1984 altering the standard scale set out in Article 5(2) of that Order.

(2) An order under subsection (1)—

35 (a) is subject to negative resolution, and

(b) does not affect the punishment for an offence committed before that order comes into force.

Appeals

Appeals [j38]

40 **67.**—(1) This section applies to the following decisions of a council—

(a) to issue a household notice;

- (b) to refuse to cancel a continuation notice;
 - (c) to grant an HMO licence (including any decision as to its terms or any conditions included in it);
 - 5 (d) to refuse an application for an HMO licence, unless the refusal is solely because the council is not satisfied as mentioned in section 8(2)(a) (planning control);
 - (e) to issue a temporary exemption notice (including any decision as to the inclusion of safety and security requirements under section 17);
 - (f) to refuse an application for a temporary exemption notice;
 - 10 (g) to revoke a temporary exemption notice, or to refuse to grant an extension of one;
 - (h) to renew an HMO licence (including any decision as to its terms or any conditions included in it as from its renewal);
 - 15 (i) to refuse an application to renew an HMO licence, unless the refusal is solely because the council is not satisfied as mentioned in section 8(2)(a) (planning control);
 - (j) to vary an HMO licence, or to refuse an application to vary one;
 - (k) to revoke an HMO licence;
 - 20 (l) to refuse to extend the period for which a licence has effect under section 29 (death of sole licence holder);
 - (m) to issue a rectification notice (including any decision as to the terms of it), or to refuse to revoke such a notice;
 - (n) to issue a Part 4 notice (including any decision as to the terms of it);
 - 25 (o) to vary or revoke a Part 4 notice, or to refuse an application to vary or revoke one;
 - (p) to demand recovery of expenses under paragraph 9 of Schedule 3.
- (2) An appeal may be made to the county court against any decision to which this section applies.
- (3) An appeal may be made only by a person on whom notice is required to be served under the provision of this Act in question.
- 30 (4) An appeal must be made before—
- (a) the end of the period of 28 days beginning with the date on which notice was served on the person, or
 - 35 (b) if later, the end of the period of 7 days beginning with date on which reasons for the decision were served under section 68.
- (5) But the court may allow an appeal to be made after that date, if it considers that there are special circumstances which make it just to do so.
- (6) Where—
- 40 (a) a person makes an application, in accordance with this Act, for a decision to which this section applies (except an application for an HMO licence or for the renewal of one), and
 - (b) the council does not notify the applicant of its decision within the period of 35 days beginning with the date on which the application was made (or such further period as the applicant may in writing allow),

the applicant may make an appeal under this section as if the council had refused the application.

(7) In this section, references to the service of notice are—

(a) in the case of a decision to issue a notice, to the service of that notice;

5 (b) otherwise, to service of notice of the decision.

Council’s statement of reasons for decisions which may be appealed [j38B]

68.—(1) In the case of any decision to which section 67 applies, the notice must (in addition to any other matters required by any provision of this Act) include or be accompanied by a statement informing the person—

10 (a) that the person may request a statement of the council’s reasons for the decision, and

(b) of the right to appeal under section 67 and the period within which such an appeal must be made (as to which, see section 67(4)).

(2) A person on whom any such notice has been served may, within 7 days of service of the notice, request the council to give a statement of its reasons for the decision.

(3) Where a council receives a request in accordance with subsection (2), it must within 14 days of doing so serve a statement of its reasons for the decision on—

(a) the person who made the request, and

20 (b) any other person on whom the notice was served.

(4) The duties under subsections (1)(a) and (3) to give notice of the right to request reasons and to give a statement of reasons do not apply where (whether or not in accordance with any provision of this Act) the notice includes or is accompanied by a statement of reasons.

25 (5) In this section, “the notice” means—

(a) in the case of a decision to issue a notice, that notice;

(b) otherwise, notice of the decision.

Powers of court on appeal [j38A]

69.—(1) An appeal under section 67—

30 (a) is to be by way of a re-hearing, but

(b) may be determined having regard to matters of which the council were unaware.

(2) The court may confirm, reverse or vary the decision of the council.

(3) If the appeal is against a decision to refuse an application, the court may direct the council to grant the application in such terms as the court may direct.

35

Information

Powers to require information and documents: introductory [j45A]

70. The powers conferred by sections 71, 72 and 73 are exercisable by a council for the purposes of—

- (a) enabling or assisting the council to exercise any function conferred on it by this Act in relation to any premises;
- (b) investigating whether any offence has been committed under this Act in relation to any premises.

5 **Power to obtain information from persons connected to premises [j45B]**

71.—(1) The council may, by serving notice on a relevant person, require the person to provide the following information in writing to the council—

- (a) the nature of the person's estate (if any) in premises specified in the notice,
- 10 (b) the name and address of any other person known to that person as having an estate in the premises, and
- (c) any other information about the premises that the council may reasonably request and which is in the person's custody or under the person's control.

(2) Where a notice under this section is served—

- (a) on a person who appears to the council to be the occupier of premises, and
- 15 (b) for the purpose of enabling or assisting the council to decide whether the premises are, or contain, an HMO,

the notice may also require the person to disclose the relationship (if any) between that person and any other occupants.

(3) A notice under this section must—

- 20 (a) specify a date, not less than 21 days after the date on which the notice is served, by which the information must be provided,
- (b) specify a person to whom the information must be provided, and
- (c) include information about the possible consequences of not complying with the notice.

25 (4) Information provided by a person in response to a notice under this section may be used in criminal proceedings as evidence against the person only where subsection (5) or (6) applies.

(5) This subsection applies where the person is being prosecuted for an offence under Article 7 or 10 of the Perjury (Northern Ireland) Order 1979 (false statutory
30 declarations and other false unsworn statements).

(6) This subsection applies where the person is being prosecuted for any other offence and—

- (a) in giving evidence the person makes a statement inconsistent with the information provided in response to the notice, and
- 35 (b) evidence relating to that information is adduced, or a question about it is asked, by or on behalf of the person.

(7) In this section “relevant person” means any person who—

- (a) is, or is proposed to be, the holder of an HMO licence in respect of the premises,
- 40 (b) is, or is proposed to be, a person named in such an HMO licence as a person on whom a restriction or obligation is imposed under section 14,
- (c) is, or is proposed to be, a managing agent of the premises,

(d) is, or appears to the council to be, the owner or occupier of the premises, or

(e) receives, or appears to the council to receive, any rent (directly or indirectly) in respect of the premises.

5 **Power to require persons connected to premises to produce documents [j45C]**

72.—(1) The council may, by serving notice on a relevant person, require the person to produce to the council any documents which—

(a) are specified or described in the notice, or fall within a category of document which is specified or described in the notice, and

10 (b) are in the person’s custody or under the person’s control.

(2) A notice under this section must—

(a) specify a date, not less than 21 days after the date on which the notice is served, by which the documents must be produced,

(b) specify a person to whom the documents must be produced, and

15 (c) include information about the possible consequences of not complying with the notice.

(3) A person to whom any document is produced in accordance with the notice may copy the document.

20 (4) Nothing in this section requires a person to produce a document if the person would be entitled to refuse to produce it in proceedings in the High Court on grounds of legal professional privilege.

(5) In this section—

“relevant person” has the same meaning as in section 71,

“document” includes information recorded otherwise than in legible form, and

25 in relation to information so recorded, any reference to the production of a document is a reference to the production of a copy of the information in legible form.

Power to obtain information from other persons [j44A]

30 73.—(1) The council may, by serving notice on a relevant person, require the person to provide to the council, in writing, any relevant information which is in the person’s custody or under the person’s control.

(2) “Relevant person” means any of the following—

(a) the Department of Finance and Personnel;

(b) the Northern Ireland Housing Executive;

35 (c) the Secretary of State;

(d) a scheme administrator of a tenancy deposit scheme under regulations under Article 5A of the Private Tenancies (Northern Ireland) Order 2006;

(e) a registrar of landlords appointed under regulations under Article 65A of that Order;

40 (f) the Gangmasters Licensing Authority;

(g) any person acting as a gangmaster in relation to work in Northern Ireland;

- (h) a utilities undertaker;
 - (i) an institution of further education;
 - (j) a higher education institution;
 - (k) any person carrying on estate agency work or lettings agency work in the course of a business.
- 5
- (3) “Relevant information” means—
- (a) information which indicates that a building or part of a building is or may be an HMO;
 - (b) the following information about any living accommodation which is or may be an HMO—
10
 - (i) information as to its location, condition, size or description;
 - (ii) information as to the number of its occupants; or
 - (c) the name and address of the owner of any such accommodation, or of any person acting as an agent of the owner;
 - 15 (d) the name and date of birth of any person who is, or appears to be, an occupant of any such accommodation;
 - (e) the date on which any tenancy or other arrangement to occupy any such accommodation begins or ends.
- (4) But information is “relevant information” only if—
- 20 (a) in the case of information held by the Department of Finance and Personnel, it is held for the purpose of the Department’s functions—
 - (i) under the Rates (Northern Ireland) Order 1977 or the Rates (Capital Values, etc) (Northern Ireland) Order 2006, or
 - (ii) in relation to the administration of housing benefit;
 - 25 (b) in the case of information held by the Northern Ireland Housing Executive, it is held for the purposes of the Executive’s functions in relation to the administration of housing benefit;
 - (c) in the case of information held by the Secretary of State, it is held in connection with the enforcement of the law relating to immigration.
- 30 (5) A notice under this section must—
- (a) specify a date, not less than 21 days after the date on which the notice is served, by which the information must be provided,
 - (b) specify a person to whom the information must be provided, and
 - 35 (c) include information about the possible consequences of not complying with the notice.
- (6) Information provided by a person in response to a notice under this section may be used in criminal proceedings as evidence against the person only where subsection (7) or (8) applies.
- (7) This subsection applies where the person is being prosecuted for an offence under Article 7 or 10 of the Perjury (Northern Ireland) Order 1979 (false statutory declarations and other false unsworn statements).
- 40 (8) This subsection applies where the person is being prosecuted for any other offence and—

- (a) in giving evidence the person makes a statement inconsistent with the information provided in response to the notice, and
 - (b) evidence relating to that information is adduced, or a question about it is asked, by or on behalf of the person.
- 5 (9) 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.
- 10 (10) Schedule 6 contains definitions for the purposes of this section.
- (11) The Department may by regulations amend the definitions of “relevant person” and “relevant information”, as set out in this section and Schedule 6, in such manner as it considers appropriate.

Failure to comply with notice under section 71, 72 or 73 [j45D]

- 15 **74.**—(1) A person commits an offence if the person—
- (a) refuses or fails to provide information as required under section 71 or 73 or to provide a document as required under section 72, and
 - (b) does not have a reasonable excuse for that refusal or failure.
- (2) A person commits an offence if—
- 20 (a) the person provides information in response to a notice under section 71 or 73,
- (b) the information is false or misleading in a material particular, and
 - (c) the person knows that it is, or is reckless as to whether it is, false or misleading.
- 25 (3) A person commits an offence if the person intentionally alters, suppresses or destroys any document that the person has been required to produce by a notice under section 72.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

30 **Unauthorised disclosure of information obtained under section 73 [j44C]**

- 75.**—(1) An employee of a council commits an offence if the employee discloses without lawful authority any information—
- (a) which the employee acquired in the course of his or her employment,
 - (b) which is, or is derived from, information provided to the council under section 73, and
 - 35 (c) which relates to particular living accommodation or a particular person.
- (2) It is not an offence under this section to disclose information which has previously been disclosed to the public with lawful authority.
- (3) It is a defence for a person charged with an offence under this section to show that, at the time of the alleged offence, the person believed—
- 40

- (a) that the disclosure in question was being made with lawful authority and had no reasonable cause to believe otherwise, or
 - (b) that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- 5 (4) For these purposes a disclosure of information is made with lawful authority if, and only if, it is made—
- (a) by an employee of the council in accordance with the employee’s official duties,
 - (b) in accordance with any statutory provision or order of a court,
 - 10 (c) for the purposes of any criminal proceedings, or
 - (d) with the consent of the person to whom the information relates.
- (5) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - 15 (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or to both.

Court to inform council of convictions [j23]

76.—(1) This section applies where a court convicts a person of any offence under this Act, other than an offence under section 75.

20 (2) Within 6 days of the court convicting the person, the court must send to the relevant council—

- (a) notice of the conviction and sentence (if any), and
 - (b) a note of any revocation order or disqualification order made by the court in consequence of the conviction.
- (3) The relevant council is—
- 25 (a) where the offence relates to an HMO or any other premises, the council for the area in which the HMO or other premises is situated;
 - (b) where the offence relates to an HMO licence or any notice issued under this Act, the council which issued the licence or notice.

Powers of entry

30 **Powers of entry: without warrant [j43A]**

77.—(1) This section applies where a council considers that a survey or examination of any living accommodation is reasonably required for the purpose of enabling or assisting the council to decide—

- (a) whether the living accommodation is an HMO,
- 35 (b) whether to grant, vary or revoke an HMO licence in relation to the living accommodation, or
- (c) whether or how any other function under this Act should be exercised in relation to the living accommodation.

40 (2) A person authorised in writing by the council may, at any reasonable time, enter the living accommodation for the purpose of carrying out the survey or examination.

(3) Before entering the accommodation, the person must give at least 24 hours' notice of the intention to do so to—

- (a) the owner of the accommodation (if known), and
- (b) the occupiers of the accommodation (if any).

5 (4) The person may not use force in the exercise of the power conferred by this section.

(5) The person must produce for inspection the written authorisation mentioned in subsection (2), if requested to do so by the owner or occupier or any person acting on their behalf.

10 **Powers of entry: with warrant [j43B]**

78.—(1) A lay magistrate may issue a warrant under this section authorising a person named in the warrant to enter and search premises which are specified in the warrant.

15 (2) A magistrate may issue such a warrant only if satisfied, on a complaint made in writing and substantiated on oath, that the first and second conditions are met.

(3) The first condition is that an officer of the council, or a person acting on behalf of the council, reasonably requires to enter or search the premises for the purpose of enabling or assisting the council to decide—

- 20 (a) whether any offence under this Act has been committed in relation to the living accommodation,
- (b) whether any requirement imposed by any notice issued under this Act in relation to the living accommodation is being or has been complied with, or
- (c) any of the matters mentioned in paragraphs (a) to (c) of section 77(1).

25 (4) The second condition is that—

- (a) applying to the owner or occupiers for entry (whether under section 77 or otherwise) would defeat the purpose of the entry or search,
- (b) the premises are unoccupied,
- (c) the premises are temporarily vacant and it might defeat the purpose of the entry to await the return of the occupiers, or
- 30 (d) entry to the premises has been sought in accordance with section 77 but has been refused.

(5) A warrant under this section must specify the purpose for which the entry and search is required.

35 (6) A warrant under this section may authorise the use of force.

(7) Entry under a warrant under this section must be at a reasonable hour unless it appears to the person executing it that the purpose of the entry or search may be defeated if the entry is at a reasonable hour.

(8) A person executing a warrant under this section may—

- 40 (a) search for, and inspect, any document or other item;
- (b) take copies of any document;

(c) require any person to provide such information or other assistance as the person executing the warrant requires for the purpose of the entry or search.

5 (9) A person executing a warrant under this section must produce the warrant for inspection, if requested to do so by the owner or occupier or any person acting on their behalf.

(10) A warrant under this section is valid for the period of one month beginning with the date on which it is issued.

Powers of entry: supplementary provisions [j43C]

10 **79.**—(1) A person entering premises under section 77 or 78 may be accompanied by such other persons as the person considers necessary for the purpose for which the power is being exercised.

15 (2) If premises are unoccupied or temporarily vacant, a person entering them under section 77 or 78 must leave them as effectively secured against trespassers as the person found them.

(3) Where any property is damaged in the exercise of any power conferred by section 77 or 78, or in the doing of anything for the purposes of which such a power is conferred, the council must compensate the person who sustained the damage, unless the damage is attributable to the fault of that person.

20 (4) Any question of disputed compensation under this section is to be determined by the Lands Tribunal.

(5) A person commits an offence if the person—

(a) obstructs a relevant person in the performance of anything which, by virtue section 77 or 78, the relevant person is required or authorised to do, and

25 (b) does not have a reasonable excuse for doing so.

(6) In subsection (5), “relevant person” means a person entering premises under section 77 or 78, or any person accompanying such a person under subsection (1).

(7) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

30 *Other supplementary provision*

Application by owner where consent withheld [j43D]

80.—(1) This section applies where—

(a) a person is required, by a notice served under this Act, to take any action in relation to any premises,

35 (b) the consent of another person is required for the action to be taken or to enter any premises in order for it to be taken,

(c) that person has, in response to a written request for consent, unreasonably refused to give it or has failed to respond to the request.

(2) A court of summary jurisdiction may, on the application of the person
40 required to take the action, make an order—

(a) declaring that the consent has been unreasonably withheld, and

(b) granting the necessary consent.

Obstructions etc [j35]

81.—(1) This section applies where any person (“A”) is required, authorised or entitled to take any action under—

- (a) a temporary exemption notice,
- 5 (b) a rectification notice,
- (c) a Part 4 notice, or
- (d) paragraph 5 of Schedule 3 (power to undertake works).

(2) If—

- 10 (a) A gives notice to any other person (“O”) that A intends to take the action, and
- (b) after receiving that notice, O prevents or obstructs A from taking that action,

A may make an application for an order under subsection (3).

15 (3) A court of summary jurisdiction may, on the application of A, order O to permit A to do all things which A reasonably requires to do for the purposes of taking the action in question.

(4) Any person who fails to comply with an order under subsection (3) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

20 (5) This section does not apply in relation to rights conferred by sections 77 to 79 (powers of entry).

Effect of moving from accommodation for works to be carried out [j34]

82.—(1) This section applies where—

- 25 (a) a person (“P”) occupies living accommodation under a tenancy or other occupancy arrangement, and
- (b) P moves from the accommodation for the purpose of enabling any person to carry out any work which is—
 - (i) required under a temporary exemption notice, a rectification notice or a hazard notice, or
 - 30 (ii) specified in a statement of remedial work under section 53.

(2) It does not matter whether P moves voluntarily, or in accordance with any term of the tenancy or other occupancy arrangement, or in accordance with paragraph 6 or 7 of Schedule 3 (requirements or warrants to vacate).

35 (3) The tenancy or other occupancy arrangement, if P so chooses, is to be taken not to have been terminated, varied or altered by reason of P’s moving.

(4) If P resumes lawful occupation, the same terms apply (except so far as otherwise agreed) in respect of that occupation as applied in respect of the occupation before P moved.

40 (5) In this section “lawful occupation” means occupation which is not an offence under paragraph 8 of Schedule 3.

HMOs occupied in breach of Act [j61]

83.—(1) This section applies to any tenancy or other arrangement to occupy—

- (a) an HMO that is required to be licensed under section 7 but is not so licensed, or
- 5 (b) an HMO that is occupied in breach of any other provision of this Act or of a notice issued under it.

(2) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of—

- 10 (a) any provision requiring the payment of rent or the making of any other periodical payment in connection with any tenancy or other occupancy arrangement to which this section applies, or
- (b) any other provision of such a tenancy or occupancy arrangement.

Final provisions

Fees [j40]

15 **84.**—(1) The Department may by regulations make provision about the charging of fees under section 62(9) and paragraph 1(4) of Schedule 2.

(2) Regulations under subsection (1) may in particular—

- (a) set the amount, or maximum amount, of any such fee;
- (b) set out how such fees are to be arrived at;
- 20 (c) specify circumstances in which no fee is payable;
- (d) specify circumstances in which fees are to be refunded.

(3) When fixing fees under this Act, the council may (subject to any regulations made under subsection (1)) take into account all costs incurred by the council in carrying out its functions under this Act.

25 **Guidance [j92]**

85.—(1) The Department may issue guidance to councils about the exercise of their functions under this Act.

(2) In exercising any function under this Act, a council must have regard to any guidance under this section which applies to it in the exercise of that function.

30 (3) Before issuing any guidance under this section the Department must consult—

- (a) councils, and
- (b) such other persons as the Department considers appropriate.

(4) Any guidance under this section must be—

- 35 (a) issued in writing, and
- (b) published in such manner as the Department considers appropriate for the purpose of bringing it to the attention of councils.

(5) The Department may vary or revoke any guidance issued under this section.

Regulations and orders [j91]

86.—(1) Regulations under section 1(3), 3(4), 4(1)(c), 13(3) or 14(3) or paragraph 4, 5 or 9 of Schedule 1, or an order under section 90, may include such consequential, transitional and saving provision as the Department considers
 5 necessary or expedient in connection with the other provision made by those regulations or that order.

(2) Provision made under subsection (1) may include the modification of Northern Ireland legislation.

(3) The following instruments may not be made unless a draft of the instrument
 10 has been laid before, and approved by a resolution of, the Assembly—

- (a) any regulations or orders that, by virtue of subsection (2), modify Northern Ireland legislation;
- (b) any regulations under section 1(3);
- (c) any regulations under section 73(11).

15 (4) Any other regulations made under this Act are subject to negative resolution.

(5) Before making regulations under section 1(3), 12(1)(c), 13(3) or 14(3), the Department must consult—

- (a) councils;
- (b) such persons as appear to the Department to be representative of—
 20 (i) landlords, and
 (ii) occupiers of houses; and
- (c) such other persons as the Department considers appropriate (which may include landlords or occupiers of houses, or both).

General notices [j91A]

25 87.—(1) This section applies to a general notice given by a council under—

- (a) section 15(2);
- (b) section 27(2);
- (c) section 64(2)(d);
- (d) paragraph 1(1) or (2)(h) or paragraph 2(4) of Schedule 2.

30 (2) Any such notice must be—

- (a) given in writing, and
- (b) published in such manner as the council considers appropriate.

(3) The council may vary or revoke any such notice.

Interpretation [j90]

35 88.—(1) In this Act—

the “associates” of a person (“P”) are—

- (i) any member of P’s family (as to which, see subsections (2) and (3)),
 and
- 40 (ii) if P is the director of a company, any person (not falling within subparagraph (i)) who is connected with P within the meaning of section 252 of the Companies Act 2006;

references to “buildings” do not include, in particular, mobile homes;

“building regulations” means any statutory provisions which relate to the construction of new buildings or to the carrying out of works in or to existing buildings and which are for the time being in force;

5 “council” means a district council (and see subsection (4));

“the Department” means the Department for Social Development;

“disqualification order” means an order under section 38(2)(b) or (c) or (3);

an “emergency hazard notice” is a hazard notice which complies with section 55(3);

10 an appeal against a decision is “finally determined” when—

(i) the appeal is withdrawn, or

(ii) a determination is made (other than a determination quashing the decision) from which no further appeal is allowed;

15 “fit for human habitation” has the meaning given by Article 46 of the Housing (Northern Ireland) Order 1981 (except that references in that Article to the Executive are to be read as references to the council);

“HMO” means a house in multiple occupation (see sections 1 to 6);

“HMO licence” means a licence under section 7;

“living accommodation” has the meaning given by section 2;

20 the “managing agent” of any living accommodation includes any person who, acting on behalf of the owner, does any of the following—

(i) receives rents or other payments from persons who occupy the accommodation,

(ii) arranges for the carrying out of any repairs or refurbishment of it,

25 (iii) concludes (or makes arrangements for the owner to conclude) tenancies or other agreements for the occupation of it, or

(iv) sends or receives communications relating to it to or from the occupants or the council;

“owner” has the meaning given by subsections (5) and (6);

30 “Part 4 notice” means any of the following—

(i) an overcrowding notice under section 44,

(ii) a suitability notice under section 50, or

(iii) a hazard notice under section 55;

“revocation order” means an order under section 38(2)(a);

35 “the statutory authorities” means—

(i) the Chief Constable,

(ii) the Department,

(iii) the Northern Ireland Fire and Rescue Service Board,

(iv) the Northern Ireland Housing Executive, and

40 (v) such other authorities as the Department may by regulations appoint for this purpose;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(2) For the purposes of this Act, two persons are members of the same family only if—

- (a) they are a couple,
- (b) one of them is a relative of the other, or
- 5 (c) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of that couple.

(3) In subsection (2)—

- (a) a “couple” is two persons who are married to each other or are civil partners, or who live together as husband and wife or (where they are of 10 the same sex) in an equivalent relationship,
- (b) “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin,
- (c) a relationship of the half-blood is to be treated as a relationship of the whole blood, and
- 15 (d) the stepchild of a person is to be treated as that person’s child.

(4) The functions conferred by this Act on a council are exercisable in relation to living accommodation situated in its district (so that, in particular, “the council”, in relation an HMO or HMO licence, means the council for the district in which the HMO is situated).

20 (5) In this Act, the “owner” of living accommodation is the person, other than a mortgagee not in possession, who (whether on the person’s own account or as trustee for another)—

- (a) receives or is entitled to receive the rack rent for the accommodation, or
- 25 (b) if the accommodation is not let at a rack rent, would be entitled to receive that rent if it were so let.

(6) For the purposes of subsection (5)—

- (a) it does not matter whether the person receives the rent directly or through an agent;
- (b) it does not matter whether the person receives (or would be entitled to 30 receive) the rent alone or jointly or in common with any other person;
- (c) “rack rent” means a rent which is not less than two-thirds of the net annual value of the accommodation, or a rent which has been fixed in accordance with the Rent (Northern Ireland) Order 1978.

Repeals and consequential amendments [j53]

35 **89.** The repeals and consequential amendments set out in Schedule 7 have effect.

Commencement [j50]

90.—(1) Sections 84 to 86, this section and section 91 come into operation on the day on which this Act receives Royal Assent.

40 (2) The other provisions of this Act come into operation on such day as the Department may by order appoint.

Short title [j51]

91. This Act may be cited as the Houses in Multiple Occupation Act (Northern Ireland) 2015.

Houses in Multiple Occupation

SCHEDULES

SCHEDULE 1

Section 1

5 BUILDINGS OR PARTS OF BUILDINGS WHICH ARE NOT HOUSES IN
MULTIPLE OCCUPATION [S02]

Buildings (or parts) which are not houses in multiple occupation

1.—(1) The following paragraphs list buildings which are not houses in multiple occupation.

(2) In this Schedule “building” includes a part of a building.

10 *Buildings controlled or managed by public sector bodies etc.*

2. A building where the person managing or having control of it is—

- (a) the Northern Ireland Housing Executive,
- (b) a housing association registered under Part 2 of the Housing (Northern Ireland) Order 1992,
- 15 (c) the Northern Ireland Policing Board,
- (d) the Northern Ireland Fire and Rescue Service Board, or
- (e) a health and social care body within the meaning of section 1(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.

Establishments regulated by the Regulation and Quality Improvement Authority

20 3. Any building where—

- (a) the person managing or having control of it is an establishment registered under Article 12 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003, and
- 25 (b) regulations under Article 23 of that Order impose requirements in relation to that establishment.

Buildings regulated otherwise than under this Act

4. Any building whose occupation is regulated otherwise than by or under this Act and which is of a description specified for the purposes of this paragraph in regulations made by the Department.

30 *Buildings occupied by students and managed by educational establishment*

5.—(1) Any building—

- (a) which is occupied solely or principally by persons who occupy it for the purpose of undertaking a full-time course of further or higher education at a specified educational establishment or at an educational establishment of
35 a specified description, and

(b) where the person managing or having control of it is the educational establishment in question or a specified person or a person of a specified description.

5 (2) In sub-paragraph (1) “specified” means specified for the purposes of this paragraph in regulations made by the Department.

(3) Sub-paragraph (4) applies in connection with any decision by the Department as to whether to make, or revoke, any regulations specifying—

(a) a particular educational establishment, or

(b) a particular description of educational establishments.

10 (4) The Department may have regard to the extent to which, in its opinion—

(a) the management by or on behalf of the establishment in question of any building or buildings occupied for connected educational purposes is in conformity with any code of practice approved under section 63, or

15 (b) the management of such buildings by or on behalf of establishments of the description in question is in general in conformity with any such code of practice.

(5) In sub-paragraph (4) “occupied for connected educational purposes”, in relation to a building managed by or on behalf of an educational establishment, means occupied solely or principally by persons who occupy it for the purpose of undertaking a full-time course of further or higher education at the establishment.

Buildings occupied by religious communities

6. Any building which is occupied principally for the purposes of a religious community whose principal occupation is prayer, contemplation, education or the relief of suffering.

25 *Buildings occupied by members of the armed forces*

7. Any building which is owned by the Crown and occupied only by members of the armed forces of the Crown (either alone or together with any persons in the same household as any of those members).

Prisons, etc

30 8. A prison, a young offenders centre, a juvenile justice centre or a remand centre.

Buildings occupied by owners

9. Any building which is occupied only by the following persons—

35 (a) one or more persons who have, whether in the whole or any part of it, [either a freehold estate or a leasehold interest granted for a term of more than 21 years],

(b) any member of the household of such a person or persons, and

(c) no more than such number of other persons as is specified for the purposes of this paragraph in regulations made by the Department.

SCHEDULE 2

APPLICATIONS FOR HMO LICENCES: REQUIREMENTS AND
PROCEDURE [S10]

5 CONTENT OF APPLICATION

1.—(1) An application for an HMO licence must be in writing and in such form as the council may specify by general notice.

(2) The application must include the following information—

- (a) the address of the living accommodation in question,
- 10 (b) if the owner is an individual, the owner's name and address,
- (c) if the owner is a body, the information set out in sub-paragraph (3),
- (d) if there is to be a managing agent of the HMO—
 - (i) if the agent is an individual, the agent's name and address, or
 - (ii) if the agent is a body, the information set out in sub-paragraph (3),
- 15 (e) the name and address of any person who has an estate [*define, exclude any tenant under a lease with an unexpired term of 3 years or less*] in the HMO,
- (f) the maximum number of persons who it is proposed will occupy the accommodation as their only or main residence at any one time,
- 20 (g) any other information which the Department may by regulations require to be set out in such applications, and
- (h) any other information which the council may specify by general notice.

(3) The information referred to in sub-paragraph (2)(c) and (d)(ii) is—

- (a) the name of the body,
- 25 (b) the address of its main office or place of business,
- (c) the name and address of each of its directors or partners, or other persons involved in its management.

(4) The council may require the application to be accompanied by a fee fixed by the council (see also section 84 in relation to such fees).

30 (5) Sub-paragraph (4) is subject to paragraph 10(2).

PUBLICATION OF APPLICATION

Applicant to display notice of application

2.—(1) A person who makes an HMO application must cause notice of the application to be displayed, on or near to the HMO in question, in such a manner that the notice can be conveniently read by members of the public.

(2) The notice must be displayed for the period of 21 days beginning with the date on which the application is made.

(3) The notice must comply with paragraph 6 (matters to be included in it).

40 (4) The notice must be in such form as the council may specify by general notice for the purposes of this paragraph.

(5) The removal, obscuring or defacement of a notice under this paragraph does not affect compliance with sub-paragraphs (1) to (3) if the applicant—

- (a) did not cause the removal, obscuring or defacement,
- (b) took reasonable steps to prevent it, and
- 5 (c) on becoming aware of it, promptly replaced the notice.

(6) An applicant who considers that sub-paragraphs (1) to (3) have been complied with must certify that fact to the council.

(7) Where—

- 10 (a) a notice under this paragraph is removed, obscured or defaced during the period for which it is required to be displayed, but
 - (b) the applicant considers that, because of sub-paragraph (5), compliance with sub-paragraphs (1) to (3) is not affected,
- the certificate must state the relevant circumstances.

Exceptions from requirement to display notice

15 3.—(1) This paragraph applies where the council, on a submission by the applicant, considers that either the first condition or the second condition is met.

(2) The first condition is that the applicant has been unable to comply with paragraph 2(1) to (3) because of a lack of necessary rights (of access or otherwise) despite having taken reasonable steps for the purpose of acquiring those rights.

20 (3) The second condition is that complying with paragraph 2(1) to (3) is likely to jeopardise—

- (a) the safety or welfare of any persons, or
- (b) the security of any premises.

(4) The council must—

- 25 (a) serve on the applicant a notice stating that paragraph 2 is disapplied in relation to the application, and
- (b) serve, or require the applicant to serve, notice of the application on the occupiers of such premises in the vicinity of the HMO as the council considers appropriate.

30 (5) A notice under sub-paragraph (4)(b) must comply with paragraph 6 (matters to be included in it).

Effect of failure to display notice

4. If—

- 35 (a) the applicant fails to comply with paragraph 2(1) to (3) and the council does not serve notice under paragraph 3(4)(a) (disapplying those requirements), or
- (b) the council requires the applicant to serve notice of the application in accordance with paragraph 3(4)(b) and the applicant fails to do so,

the council may refuse to proceed with the application.

Council to give notice of application to certain persons

5.—(1) The council must send a copy of any application for an HMO licence to the statutory authorities.

(2) The council may cause notice of an application for an HMO licence to be published in a newspaper circulating in the locality of the HMO.

(3) But—

(a) where the first condition is met, the council must cause notice to be so published (unless the second condition is also met), and

(b) where the second condition is met (or both conditions are met), the council must not cause notice to be so published.

For “the first condition” and “the second condition”, see paragraph 3(2) and (3).

(4) A notice under sub-paragraph (2) or (3)(a) must comply with paragraph 6 (matters to be included in it).

Information which must be contained in notice under paragraphs 2 to 5

6.—(1) A notice under paragraph 2(1), 3(4)(b) or 5(2) or (3)(a) must—

(a) state that an application for an HMO licence has been made in respect of the HMO,

(b) set out the information mentioned in paragraph 1(2) and (3) (except the information mentioned in paragraph 1(3)(c)),

(c) state the date on which the application was made,

(d) explain the procedure for making written representations about the application to the council, and

(e) specify the date by which such representations should be made in response to the notice.

(2) The date specified under sub-paragraph (1)(e) must be not less than 21 days after the date of the notice.

Representations in response to notices

7.—(1) A representation made in response to a notice under paragraph 2, 3 or 5 is valid only if it—

(a) is made in writing,

(b) sets out the name and address of the person making the representation, and

(c) is made on or before the deadline for making written representations.

(2) The deadline for making written representations is—

(a) where one or more notices have been displayed, served or published under paragraph 2(1), 3(4)(b) or 5(2) or (3)(a), the latest date specified in any of those notices as the date by which representations must be made, or

(b) otherwise, the date at the end of the period of 21 days beginning with the date on which the application is made.

REFUSAL OF APPLICATION: BREACH OF PLANNING CONTROL

8. Paragraphs 9 and 10 apply where the council is not satisfied that the occupation of the living accommodation as an HMO would not constitute a breach

of planning control (within the meaning given by section 131 of the Planning Act (Northern Ireland) 2011).

9.—(1) The council must serve on the applicant a notice which—

- (a) states that the council has decided to refuse the application,
- 5 (b) sets out the reason for the decision, and
- (c) sets out the effect of paragraph 10.

(2) The notice must be served on the applicant before the end of the period of 28 days beginning with the day on which the application is made.

(3) The council must send a copy of the notice to the statutory authorities.

10 10.—(1) This paragraph applies if, after the council has refused an application under paragraph 9, the applicant obtains—

- (a) planning permission under Part 3 of the Planning Act (Northern Ireland) 2011, or
- 15 (b) a certificate of lawfulness of use or development under section 169 or 170 of that Act,

in respect of the occupation of the living accommodation as an HMO.

(2) If—

- (a) the applicant makes a further application for an HMO licence in respect of the living accommodation, and
- 20 (b) does so before the end of the period of 28 days beginning with the date on which the applicant obtains the permission or certificate,

no fee may be charged in respect of that application.

CONSIDERATION OF APPLICATION AND HEARINGS

25 11. Paragraphs 12 to 16 apply where the council does not consider that occupation of the living accommodation would constitute a breach of planning control (within the meaning given by section 131 of the Planning Act (Northern Ireland) 2011).

Notice of proposed decision

12.—(1) The council must serve a notice under this paragraph on—

- 30 (a) the applicant, and
- (b) each relevant person.

(2) A notice under this paragraph must state which of the following the council proposes to do—

- (a) grant the licence in the terms applied for;
- 35 (b) grant the licence in terms different from those applied for;
- (c) refuse the licence.

(3) A notice under this paragraph must also—

- (a) if the council proposes to grant the licence, set out the main terms of the proposed licence and any terms which differ from those applied for,
- 40 (b) state the reasons for the proposed decision (including any proposed differences), and

(c) specify the date by which written representations by the recipient of the notice must be made.

(4) The date specified under sub-paragraph (3)(c) must be not less than 14 days after the date on which the notice is served.

5 (5) The notice must be accompanied by a copy of any valid representations received by the council in response to a notice under paragraph 2, 3 or 5.

(6) In this Schedule, a “relevant person” is any of the following (other than the applicant)—

10 (a) a person named in the application in accordance with paragraph 1(2)(d) or (e) (managing agents and persons having an estate in the HMO);

(b) a person who is not so named but who, to the knowledge of the council—

(i) is or is proposed to be a managing agent of the HMO, or

(ii) has an estate [*define, exclude any tenant under a lease with an unexpired term of 3 years or less*] in it;

15 (c) a person who is proposed to be named in the licence as a person on whom a restriction or obligation is imposed under section 14.

Hearings

20 13.—(1) This paragraph applies if the council decides (whether on a submission by the applicant or a relevant person, or on its own initiative) to hear oral representations about the application.

(2) The council must serve notice of the hearing on—

(a) the applicant,

(b) every relevant person,

25 (c) every person who made valid representations in response to a notice under paragraph 2, 3 or 5, and

(d) any other person the council considers appropriate.

(3) The notice must state the date, time and place of the hearing.

(4) The notice must be served not less than 7 days before the date of the proposed hearing.

30 (5) “Relevant person” has the meaning given by paragraph 12(6).

Consideration of application

14. In determining whether to grant the licence (and in what terms) the council must consider—

35 (a) any valid representations made in response to a notice under paragraph 2, 3 or 5,

(b) any written representations made by a recipient of a notice under paragraph 12 before the date specified under paragraph 12(3)(c), and

(c) any oral representations made at a hearing under paragraph 13.

Time limit for determining application

15.—(1) The council must decide whether to grant or refuse an application for an HMO licence before the end of the period of 6 months beginning with the date on which the council received it.

5 (2) A court of summary jurisdiction may extend the period mentioned in sub-paragraph (1) in the case of a particular HMO application.

(3) An order under sub-paragraph (2) is to be made on an application made by the council before the end of the period mentioned in sub-paragraph (1).

10 (4) The applicant for the licence is entitled to be a party to any proceedings on an application under sub-paragraph (3).

(5) The decision of a court on an application under sub-paragraph (3) is to be final.

15 (6) If the council does not determine an application for an HMO licence before the end of the period mentioned in sub-paragraph (1) (or that period as extended), the applicant is to be treated as having been granted a licence in the terms applied for.

(7) Sub-paragraph (6) does not prevent the council from varying or revoking a licence which is treated as having been granted in accordance with that sub-paragraph.

20 *Notice of determination*

16.—(1) The council must serve notice of its decision on an application for an HMO licence on—

- (a) the applicant,
- (b) each relevant person (within the meaning given by paragraph 12(6)), and
- 25 (c) the statutory authorities.

(2) The notice must—

- (a) state the council's decision,
- (b) if the decision is to grant a licence, be accompanied by a copy of the licence,
- 30 (c) if the licence is granted in terms different from those applied for, include a statement of the reasons for that difference, and
- (d) state the date on which the decision was made.

(3) The notice must be served before the end of the period of 7 days beginning with the day on which the decision is made.

35 **FALSE OR MISLEADING INFORMATION**

17.—(1) A person commits an offence if—

- (a) the person provides information in connection with an application for an HMO licence,
- (b) the information is false or misleading in a material particular, and
- 40 (c) the person knows that it is, or is reckless as to whether it is, false or misleading.

(2) A person guilty of an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

SCHEDULE 3

Sections 17, 35, 53 and 58

5 FURTHER PROVISION ABOUT NOTICES THAT SPECIFY WORKS [S33]

PART 1

PROVISION APPLYING TO ALL NOTICES THAT SPECIFY WORKS

Application of Part of Schedule

1. This Part of this Schedule applies to—

- 10 (a) a temporary exemption notice that includes a requirement under section 17 (works to improve safety or security);
- (b) a rectification notice that requires the carrying of work;
- (c) a suitability notice that contains a statement of remedial work under section 53;
- 15 (d) a hazard notice that contains a works requirement under section 58.

Listed buildings etc

2.—(1) In this paragraph “protected building” means a building—

- 20 (a) which is included in any list of buildings of special architectural or historic interest compiled under section 80 of the Planning Act (Northern Ireland) 2011 (“the 2011 Act”),
- (b) which is subject to a building preservation notice under section 83 of the 2011 Act, or
- (c) to which section 105 of the 2011 Act applies (control of demolition in conservation areas).

25 (2) Before a council issues a notice that specifies relevant work, the council must consult—

- (a) the Department, and
- (b) such other persons as the council considers appropriate.

30 (3) A notice specifying relevant work has effect only in so far as it is not inconsistent with any provision of the 2011 Act.

(4) In this paragraph “relevant work” is work, specified in a notice to which this Part of this Schedule applies, which is to be carried out in or to an HMO that is or forms part of a protected building.

Extension of date for completion of works

35 3.—(1) The council may, in accordance with this paragraph, extend the date by which any work must be completed—

- (a) as required by a temporary exemption notice, a rectification notice or a hazard notice, or

- (b) as specified in a statement of remedial work under section 53.
- (2) The council may grant an extension—
 - (a) on the application of any person on whom the notice in question was served, or
 - 5 (b) on the council’s own initiative.
- (3) The extension is to be to such later date as the council considers reasonable.
- (4) A date may be extended only where the council—
 - (a) considers that satisfactory progress has been made in carrying out the work,
 - 10 (b) considers that satisfactory progress has not been made but that there is a good reason why this has not been possible, or
 - (c) has received a written undertaking from the owner stating that the work will be completed by a later date which the council considers satisfactory.
- (5) The council must serve notice of any extension on—
 - 15 (a) the applicant, and
 - (b) any person appearing to the council to be the owner or a managing agent of the HMO.

PART 2

20 FAILURE TO CARRY OUT WORKS REQUIRED BY RECTIFICATION
NOTICE OR HAZARD NOTICE

Application of Part of Schedule

4. This Part of this Schedule applies if the owner of living accommodation fails to comply with—
- 25 (a) a requirement in a rectification notice to carry out works in or to an HMO, or
 - (b) a works requirement in a hazard notice.

Carrying out of work by council

- 5.—(1) The council may carry out any work required by the notice.
- (2) But the council may do so only if one of the following three conditions is met.
- 30 (3) The first condition is that—
- (a) the date specified for that work to be completed has passed, and
 - (b) the council has given the owner not less than 7 days’ notice of its intention to carry out the work under this paragraph.
- 35 (4) The second condition is that the owner has given notice to the council that the owner is unable to comply with the requirement because of a lack of necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights.

(5) The third condition is that the owner has given notice to the council stating that the owner considers that carrying out the work is likely to endanger any person.

Vacation of land or premises to allow work to be carried out

5 6.—(1) Where the council—

(a) is authorised by paragraph 5 to carry out work, and

(b) considers that doing so is likely to endanger any occupant of any land or premises,

it must require that occupant to move from the land or premises.

10 (2) A requirement under sub-paragraph (1) must be made by serving a notice on the occupant specifying—

(a) by reference to the work which the council is authorised to carry out, the reason why the occupant is required to move, and

15 (b) the date, not less than 28 days after the date on which the notice is served, by which the occupant must move.

(3) A requirement under sub-paragraph (1) ceases to have effect if—

(a) a court of summary jurisdiction refuses to issue a warrant under paragraph 7(1) in relation to it, or

(b) the work is completed.

20 *Warrants requiring occupant to vacate land or premises*

7.—(1) Where an occupant has not complied with a requirement under paragraph 6(1), the council may apply to a court of summary jurisdiction for a warrant requiring the occupant—

25 (a) to move from the land or premises in question by such date as the court may determine, and

(b) not to return until the work is completed.

(2) The court may issue a warrant under sub-paragraph (1) only if satisfied that the occupant is likely to be endangered by the carrying out of the work concerned.

30 (3) No application under this paragraph may be made before the date specified in the notice served under paragraph 6(2).

(4) On such an application, the court may require the service of a further notice on the occupant.

35 (5) Where a further notice has been required to be served under sub-paragraph (4), the date determined under sub-paragraph (1)(a) must not be less than 14 days after service of that notice.

(6) A warrant may be made subject to such other conditions (including conditions with respect to payment of rent) as the court considers just and equitable.

40 (7) No warrant may require a person (“A”) to move from any living accommodation which is that person’s only or main residence (“A’s home”) unless the court is satisfied that suitable alternative living accommodation on reasonable terms will be available to A.

(8) In sub-paragraph (7) “suitable alternative living accommodation” means accommodation which is suitable for occupation by—

(a) A, and

5 (b) any other person who would, but for the location of that other person’s place of work or of any educational institution which the person attends, reside only or mainly at A’s home.

(9) The decision of a court on an application under this paragraph is to be final.

10 (10) Refusal by the court to issue a warrant sought under this paragraph does not affect the validity of the requirement to carry out works in relation to which the warrant was sought.

Unlawful occupation etc

8.—(1) A person commits an offence if the person—

(a) knows that a requirement under paragraph 6(1) has effect in relation to any land or premises, and

15 (b) occupies the land or premises.

(2) But it is not an offence under sub-paragraph (1) for a person to continue to occupy land or premises which the person occupied on the day on which the requirement under paragraph 6(1) was made.

(3) A person commits an offence if the person—

20 (a) knows that a requirement under paragraph 6(1) has effect in relation to any land or premises, and

(b) permits another person to occupy the land or premises.

25 (4) But it is not an offence under sub-paragraph (3) for a person to permit another person to continue to occupy land or premises which that other person occupied on the day on which the requirement under paragraph 6(1) was made.

(5) A person guilty of an offence under this paragraph is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Recovery of expenses etc from owner

9.—(1) The council may recover from the owner of the HMO in question—

30 (a) any expenses that the council incurs in or in connection with carrying out work that it is authorised to carry out by paragraph 5, and

(b) any expenses that it incurs in applying for or executing a warrant issued under paragraph 7.

(2) Sub-paragraph (1) entitles the council to recover—

35 (a) any administrative expenses incurred by it in connection with the act to which the expenses relate,

(b) where notice is served under paragraph 5(3)(b), any administrative or other expenses incurred either in connection with that notice or with a view to carrying out the works (even if the works are carried out by someone other than the council), and

40 (c) interest, at such reasonable rate as it may determine, from the date when a demand for payment is served until the whole amount is paid.

(3) The sums mentioned in sub-paragraphs (1) and (2) are a civil debt recoverable summarily.

(4) Notice of any decision to demand recovery of any sums under this paragraph must be served on the owner.

5 (5) That notice may include a declaration by the council that any sums recoverable under this paragraph are to be payable by instalments.

(6) In all summary proceedings by the council for the recovery of sums under this paragraph, the time within which the proceedings may be taken are to be reckoned from the date of the service of that notice.

10 (7) Until they are recovered, sums recoverable under this paragraph are a charge on the estate that the owner has in the HMO.

(8) The charge created by sub-paragraph (7) is enforceable in all respects as if it were a valid mortgage by deed created in favour of the council by the owner (with, where necessary, any authorisation or consent required by law) and the council
15 may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 on mortgagees by deed accordingly.

(9) In proceedings by the council for the recovery of any sums under this paragraph, it shall not be open to the owner to raise any question which the owner could have raised on an appeal under section 67 against the rectification notice or
20 hazard notice in question.

Recovery of expenses etc from other person benefiting from works

10.—(1) This paragraph applies if a court of summary jurisdiction is satisfied, on the application of the council, that—

25 (a) any sums which the council is entitled to recover under paragraph 9 have not been, and are unlikely to be, recovered, and

(b) some person is profiting by the execution of the works in respect of which the sums were incurred to obtain rents or other payments which would not have been obtainable if the number of persons occupying the HMO was limited to that appropriate for the HMO in its state before the works were
30 executed.

(2) The court may order the person mentioned in sub-paragraph (1)(b) to make such payment or payments to the council as appear to the court to be just and equitable.

35 (3) But the court may make such an order only if it is satisfied that that person has had proper notice of the application.

SCHEDULE 4

Section 24

VARIATION AND REVOCATION OF HMO LICENCES: PROCEDURE
[S15A]

40 *Notice of proposal to vary or revoke*

1.—(1) This paragraph applies where the council proposes to vary or revoke a licence.

(2) The council must serve a notice under this paragraph on—

- (a) the owner,
- (b) if the proposal is in response to an application under section 22(2)(b), the applicant, and
- (c) the statutory authorities.

(3) If the proposal is to include a condition, or to vary an existing condition, which imposes a restriction or obligation on any person (except the owner), the council must also serve a notice on that person.

(4) A notice under this paragraph must—

- (a) state what the council proposes to do,
- (b) if the council proposes to vary the licence, set out the proposed variation,
- (c) state the reasons for the proposed decision, and
- (d) specify the date by which written representations by the recipient of the notice must be made.

Notice of proposal not to vary

2.—(1) This paragraph applies where the council proposes to refuse an application under section 22(2)(a) or (b) to vary a licence.

(2) The council must serve a notice under this paragraph on—

- (a) the owner,
- (b) if the application was made under section 22(2)(b), the applicant, and
- (c) the statutory authorities.

(3) A notice under this paragraph must—

- (a) state that the council proposes to refuse the application,
- (b) state the reasons for the proposed decision, and
- (c) specify the date by which written representations by the recipient of the notice must be made.

Hearings

3.—(1) This paragraph applies if the council decides (whether on a submission by an applicant under section 22(2)(a) or (b), or on its own initiative) to hear oral representations about a proposal mentioned in paragraph 1 or 2.

(2) The council must serve notice of the hearing on—

- (a) the owner,
- (b) if the proposal is in response to an application under section 22(2)(b), the applicant,
- (c) if the proposal is to include a condition, or to vary an existing condition, which imposes a restriction or obligation on any person (except the owner), that person, and
- (d) any other person the council considers to be appropriate.

(3) The notice must state the date, time and place of the hearing.

(4) The notice must be served not less than 7 days before the date of the proposed hearing.

Consideration of application

4. In determining whether (and in what way) to vary a licence, or whether to revoke a licence, the council must consider—

- 5 (a) any written representations made by a recipient of a notice under paragraph 1 or 2 before the date specified under paragraph 1(4)(d) or 2(3)(c), and
- (b) any oral representations made at a hearing under paragraph 3.

Notice of determination

5.—(1) The council must serve on—

- 10 (a) the owner,
- (b) if the decision was made on an application under section 22(2)(b), the applicant, and
- (c) the statutory authorities.

notice of its decision whether to vary or revoke an HMO licence.

15 (2) If the decision is to include a condition, or to vary an existing condition, which imposes a restriction or obligation on any person (except the owner), the council must also serve a notice on that person.

(3) The notice must—

- 20 (a) state the council's decision,
- (b) if the decision is to vary a licence, be accompanied by a copy of the licence as varied,
- (c) if the licence is varied in terms different from those applied for, include a statement of the reasons for that difference, and
- (d) state the date on which the decision was made.

25 (4) The notice must be served before the end of the period of 7 days beginning with the day on which the decision is made.

Effective date of decision

6. A variation or revocation has effect from—

- 30 (a) the last date on which the decision to vary or revoke the licence may be appealed under section 67, or
- (b) if such an appeal is made, the date on which the appeal is finally determined.

SCHEDULE 5

PART 4 NOTICES: FURTHER PROVISION [S32]

PART 1

5 SERVICE AND DATE OF EFFECT OF NOTICES

Service of notices

- 1.—(1) If a council issues a Part 4 notice, the council must serve the notice on—
- (a) any person appearing to the council to be the owner of the HMO, and
 - (b) any person appearing to the council to be a managing agent of the HMO.
- 10 (2) The council must—
- (a) except in the case of an emergency hazard notice, send a copy of the notice to the occupants of the HMO, and
 - (b) in the case of an emergency hazard notice, serve the notice on the occupants of the HMO.
- 15 (3) The council may send a copy of the notice to—
- (a) [*anyone else with an estate in the HMO*],
 - (b) the statutory authorities, and
 - (c) such other persons as the council considers appropriate.
- (4) An emergency hazard notice must be served under sub-paragraph (1) and (2)
- 20 (b) on the day on which it is issued or, if that is not possible, as soon as possible thereafter.

Operation of notices

- 2.—(1) A Part 4 notice becomes operative at the end of the period of 21 days beginning with the date of service of the notice; but this is subject to sub-paragraphs (2) and (3).
- 25 (2) A notice (other than an emergency hazard notice) becomes operative—
- (a) if the notice is suspended under paragraph 4, on the date when the suspension ends;
 - (b) if an appeal is made against the notice under section 67, on the date when
 - 30 the appeal is finally determined;
 - (c) if the notice is suspended and an appeal is made against it, on the later of those two dates.
- (3) An emergency hazard notice becomes operative on the day on which it is served under paragraph 1(2)(b).
- 35 3. If no appeal is made against a Part 4 notice, the notice is final and conclusive as to any matters which could have been raised on such an appeal.

PART 2

SUSPENSION OF EFFECT OF NOTICES

4.—(1) A Part 4 notice (other than an emergency hazard notice) may provide for the operation of the notice to be suspended until a time, or the occurrence of an event, specified in the notice.

(2) The time specified under sub-paragraph (1) may, in particular, be the time when a person of a particular description begins, or ceases, to occupy any accommodation.

(3) The council may, for the purposes of this paragraph, accept from a person on whom the notice is served a written undertaking to take, or to refrain from taking, any action specified in the undertaking.

(4) If the council does so, the event specified under sub-paragraph (1) may, in particular, be a notified breach of that undertaking.

(5) In sub-paragraph (4) a “notified breach” is an act or omission by the person—

- (a) which the council considers to be a breach of the undertaking, and
- (b) which is notified to the person in accordance with the terms of the undertaking.

5.—(1) The council may at any time review a Part 4 notice whose operation is suspended.

(2) The council must review such a notice—

- (a) not later than one year after the date on which the notice was served, and
- (b) at subsequent intervals of not more than one year.

(3) Copies of the council’s decision on a review under this paragraph must be served on every person who appears to the council to be the owner, or a managing agent, of the HMO.

PART 3

VARIATION AND REVOCATION

Variation

6.—(1) The council may vary a Part 4 notice in accordance with this paragraph.

(2) A notice may be varied—

- (a) on an application by any person on whom the notice was required to be served under paragraph 1(1), or
- (b) on the council’s own initiative.

(3) The date specified (as the date by which work must be completed) in—

- (a) a statement of remedial work under section 53, or
- (b) a works requirement in a hazard notice,

may not be varied under this paragraph (but see paragraph 3 of Schedule 3).

(4) If a council varies a Part 4 notice, the council must serve, on each person on whom the notice was required to be served under paragraph 1(1), notice of the variation, accompanied by a copy of the notice as varied.

5 (5) If a person applies for a variation of a Part 4 notice but the council decides to refuse it, the council must serve, on each person on whom the notice was required to be served under paragraph 1(1), notice of that refusal.

(6) If a notice is varied with the agreement of every person on whom the notice was required to be served under paragraph 1(1), the variation has effect from the date on which it is made.

10 (7) Otherwise a variation does not have effect until—

(a) the last date on which the decision to vary the notice may be appealed under section 67, or

(b) where such an appeal is made, the date on which the appeal is finally determined.

15 *Revocation*

7.—(1) The council may, or must, revoke a Part 4 notice in accordance with this paragraph.

(2) A notice may be revoked—

20 (a) on an application by any person on whom the notice was required to be served under paragraph 1(1), or

(b) on the council's own initiative.

(3) A suitability notice must be revoked if the work specified in a statement of remedial work under section 53 is carried out by the date specified in that statement.

25 (4) A hazard notice must be revoked if the council is satisfied that the hazard in respect of which the notice was made does not then exist in the HMO specified in the notice.

(5) Where a hazard notice relates to a number of hazards—

30 (a) sub-paragraph (4) is to be read as applying separately in relation to each of those hazards, and

(b) if, as a result, the council is required to revoke only part of the notice, it may vary the remainder as it considers appropriate.

(6) The council must serve on each person on whom the notice was required to be served under paragraph 1(1)—

35 (a) notice of any revocation under this paragraph;

(b) notice of any variation under sub-paragraph (5), accompanied by a copy of the notice as varied;

(c) if a person applies for a revocation but the council decides to refuse it, notice of that refusal.

40 (7) A revocation under this paragraph has effect from the date when it is made.

SCHEDULE 6

Section 73

DEFINITIONS FOR THE PURPOSE OF SECTION 73 [S44A]

Gangmasters

- 5 1.—(1) This paragraph applies for the purposes of section 73(2)(g).
- (2) “Acting as a gangmaster” has the meaning given by section 4 of the Gangmasters (Licensing) Act 2004.
- (3) “Work” means work to which that Act applies.
- (4) “Northern Ireland” includes—
- 10 (a) any portion of the shore or bed of the sea, or of an estuary or tidal river, adjacent to Northern Ireland, whether above or below (or partly above and partly below) the low water mark, and
- (b) the waters adjacent to Northern Ireland to a distance of 6 miles measured from the baselines from which the breadth of the territorial sea is
- 15 measured.
- (5) In sub-paragraph (4)(b) “miles” means international nautical miles of 1,852 metres.

Utilities undertaker

2. A “utilities undertaker” means any of the following—
- 20 (a) a holder of a licence under Article 10(1) of the Electricity (Northern Ireland) Order 1992;
- (b) a holder of a licence under Article 8 of the Gas (Northern Ireland) Order 1996;
- (c) a water undertaker;
- 25 (d) a sewerage undertaker.

Institution of further education

3. “Institution of further education” has the meaning given by Article 2 of the Further Education (Northern Ireland) Order 1997.

Higher education institution

- 30 4. “Higher education institution” has the meaning given by Article 30 of the Education and Libraries (Northern Ireland) Order 1993.

Estate agency work

5. “Estate agency work” has the meaning given by section 1 of the Estate Agents Act 1979.

Lettings agency work

- 35 6.—(1) “Lettings agency work” means things done by a person in response to instructions received from a prospective landlord or a prospective tenant.
- (2) In this paragraph—
- (a) “prospective landlord” means a person seeking—

- (i) to find another person wishing to occupy shared accommodation under a tenancy or other occupancy arrangement, and
 - (ii) having found such a person, to enter such an arrangement.
- (b) “prospective tenant” means a person seeking—
- (i) to find shared accommodation to occupy under a tenancy or other occupancy arrangement, and
 - (ii) having found such accommodation, to enter such an arrangement in respect of it.
- (3) However, lettings agency work does not include any of the following things when done by a person who does no other things falling within sub-paragraph (1)—
- (a) publishing advertisements or disseminating information;
 - (b) providing a means by which a prospective landlord or a prospective tenant can, in response to an advertisement or dissemination of information, make direct contact with a prospective tenant or (as the case may be) prospective landlord;
 - (c) providing a means by which a prospective landlord and a prospective tenant can continue to communicate directly with each other.
- (4) Lettings agency work also does not include things done by a council or by the Northern Ireland Housing Executive.
- (5) In sub-paragraph (2) “shared accommodation” means living accommodation which is (or which is usually or is expected to be) occupied by persons forming more than one household.

Housing benefit

7. “Housing benefit” means housing benefit provided by virtue of a scheme under section 122 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

SCHEDULE 7

Section 89

REPEALS AND CONSEQUENTIAL AMENDMENTS [S53]

Land Registration Act (Northern Ireland) 1970

- 1.—(1) Schedule 11 (matters which must be registered in the Statutory Charges Register) is amended as follows.
- (2) Paragraph 41(e), (f) and (g) are omitted.
 - (3) After paragraph 51 insert—
 - “52. Any of the following notices under the Houses in Multiple Occupation Act (Northern Ireland) 2015—
 - (a) a rectification notice;
 - (b) a Part 4 notice;
 - (c) a notice under paragraph 5(3)(b) of Schedule 3 (notice of intention to carry out work in default).”.

Rates (Northern Ireland) Order 1977

2. In Article 20(1B) (rating of owners instead of occupiers in certain cases)—
- (a) for “Part IV of the Housing (Northern Ireland) Order 1992 (NI 15)” substitute “the Houses in Multiple Occupation Act (Northern Ireland) 2015”, and
 - (b) for “shall not be treated as a qualifying person” substitute “is to be disregarded”.

Housing (Northern Ireland) Order 1981

- 3.—(1) In Article 2(2), in the definition of “house in multiple occupation”, for “Article 75 of the Housing (Northern Ireland) Order 1992” substitute “section 1 of the Houses in Multiple Occupation Act (Northern Ireland) 2015”.
- (2) In Article 41(4) (service of repair notice), for “the person managing the house” substitute “the managing agent of the house (within the meaning of the Houses in Multiple Occupation Act (Northern Ireland) 2015)”.

Housing (Northern Ireland) Order 1992

4. Part 4 (houses in multiple occupation) is omitted.

[Home Energy Conservation Act 1995

5. In section 1(1), in the definition of “residential accommodation”, in paragraph (aa)(iii) (houses in multiple occupation: Northern Ireland), for “Article 75 of the Housing (Northern Ireland) Order 1992” substitute “section 1 of the Houses in Multiple Occupation Act (Northern Ireland) 2015”.]

Housing (Northern Ireland) Order 2003

6. In Article 2(2) (general interpretation), at the appropriate place insert—
- “the Act of 2015” means the Houses in Multiple Occupation Act (Northern Ireland) 2015;”.
- 7.—(1) In Article 28(1)—
- (a) in the definition of “house in multiple occupation”, for “the same meaning as in Part IV of the Order of 1992” substitute “the meaning given by section 1 of the Act of 2015”;
 - (b) in the definition of “owner”, for “the same meaning as in Article 2 of the Order of 1981” substitute “the meaning given by section 88(5) and (6) of the Act of 2015”.
- (2) In Article 43(4) (precautions to comply with statutory provisions which can be the subject of a grant), for the words from “to comply with a notice” to the end substitute “by a works requirement in a hazard notice under Part 4 of the Act of 2015 (requirement to carry out works to remove hazard) so far as the requirement relates to premises that are not part of the HMO for the purposes of that Act.”.
- (3) For Article 48(1)(b) (purposes for which common parts grants may be given) substitute—
- “(b) to comply with a works requirement in a hazard notice under Part 4 of the Act of 2015 (requirement to carry out works to remove

hazard) or to make the house suitable for occupation as an HMO in accordance with section 13 of that Act;”.

(4) For Article 58(1)(b) (purposes for which HMO grants may be given) substitute—

5 “(b) to comply with a requirement in a temporary exemption notice, a rectification notice or a hazard notice under the Act of 2015, to carry out works specified in a statement of remedial work under section 53 of that Act, or to make the house suitable for occupation as an HMO in accordance with section 13 of that Act;”.

10 (5) In Article 59 (approval of application for HMO grant)—

(a) in paragraph (4), for “meets the requirements in Article 80(2) of the Order of 1992” substitute “is suitable for occupation as an HMO in accordance with section 13 of the Act of 2015”;

15 (b) in the opening words of paragraph (5), for “or does not meet those requirements” substitute “or is not suitable for such occupation”;

(c) in paragraph (5)(a), for “meet those requirements” substitute “suitable for such occupation”.

(6) For Article 60(5)(b) (applications to which that Article does not apply) substitute—

20 “(b) to comply with a requirement in a temporary exemption notice, a rectification notice or a hazard notice under the Act of 2015, to satisfy a statement of remedial work under section 53 of that Act, or to make the house suitable for occupation as an HMO in accordance with section 13 of that Act.”.

25 (7) For Article 81(1)(b) (conditions of HMO grant) substitute—

“(b) that the house is not occupied by more than the number of persons who are authorised to occupy it under the HMO licence for the house (see section 7 of the Act of 2015).”.

30 (8) In Article 110, in the definition of “flat in multiple occupation”, for “has the same meaning as in Part IV of the Order of 1992” substitute “means a house in multiple occupation within the meaning of the Act of 2015 which is a flat”.

(9) In Article 112(3) (service of deferred action notice), for “the person managing the house” substitute “the managing agent (within the meaning of the Act of 2015)”.

35 (10) Articles 143 and 144 and Schedule 3 (amendments of Part 4 of the 1992 Order) are omitted.

Fire and Rescue Services (Northern Ireland) Order 2006

40 8.—(1) In Article 52(1) (interpretation of Part 3), for “Article 75 of the Housing (Northern Ireland) Order 1992 (NI 15)” substitute “section 1 of the Houses in Multiple Occupation Act (Northern Ireland) 2015”.

(2) In Schedule 3 (minor and consequential amendments), paragraph 18 is omitted.

Water and Sewerage Services (Northern Ireland) Order 2006

9. In paragraph 2(2) of Schedule 2 (premises not to be disconnected for non-payment of charges), for “Article 75 of the Housing (Northern Ireland) Order 1992 (NI 15)” substitute “section 1 of the Houses in Multiple Occupation Act (Northern Ireland) 2015”.

Housing (Amendment) Act (Northern Ireland) 2010

10. Section 14 (amendment of Article 75 of the 1992 Order) is omitted.

Housing (Amendment) Act (Northern Ireland) 2011

11. Sections 10 and 11 (amendments of Part 4 of the 1992 Order) are omitted.

HOUSES IN MULTIPLE OCCUPATION (NI) BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

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

BACKGROUND AND POLICY OBJECTIVES

3. The purpose of the Bill is to enable better regulation of Houses in Multiple Occupation (HMO), by streamlining the definition and introducing licensing and to promote effective housing management and clarify existing law.

CONSULTATION

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

OPTIONS CONSIDERED

7. The consultation paper published in July 2012 set out recommendations and asked a number of detailed questions about the desirability of implementing the various proposals and the best way to achieve the intended aims. The possible options were fully explored at that stage and the provisions of the Bill broadly reflect the views of consultees.

8. Although England, Scotland and Wales have HMO licensing schemes there is currently no licensing requirement in Northern Ireland. Articles 75A to 75N of the Housing (Northern Ireland) Order 1992 as inserted by the Housing (NI) Order 2003 provide for a registration scheme for non-exempted HMOs. The registration scheme is produced and operated by the Northern Ireland Housing Executive (NIHE) subject to approval by the Department. This places the obligation on the regulatory authority to ensure conditions of registration; this is far from ideal.

9. This revised scheme to introduce HMO licensing will bring Northern Ireland into line with other UK jurisdictions. The responsibility for HMO regulation and enforcement is transferring to the councils in 2015 under this Bill and as such will add to the number of licensing schemes already operated by councils and prove more effective for the delivery of the scheme.

OVERVIEW

10. The Bill has 91 clauses and 7 Schedules. A commentary on the provisions follows (comments are not given where the wording is self-explanatory):

COMMENTARY ON CLAUSES

PART 1: MEANING OF “HOUSE IN MULTIPLE OCCUPATION”

Clause 1: Meaning of “house in multiple occupation” A House in Multiple Occupation (HMO) is defined in Clause 1 as a building or part of a building that is classed as living accommodation; occupied by three or more people, who are members of more than two families. Additionally rents must be payable or other consideration to be provided in respect of the accommodation.

Clause 2: Definition of living accommodation In Clause 2 a building, or part of a building, is defined as living accommodation if it is capable of being occupied; 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.

Clause 3: Cases where person is treated as occupying accommodation as only or main residence Clause 3 outlines the fact that people count as occupants only if the accommodation is their only or main residence. However, whilst accommodation occupied by a student during term time is regarded as that person’s only or main residence patients in hospital are not counted as occupants of the hospital.

Clause 4: Persons who are members of the same household Clause 4 specifies the meaning of “household” for the purposes of HMO licensing. The definition includes married, unmarried and same-sex couples, and step children and foster 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.

Clause 5: Notice regarding evidence of household Clause 5 makes provision for a council to serve a notice on the occupants of a house where they believe there are more than three people residing in the property and these people form more than two separate households.

Clause 6: Notice regarding continuation of occupation Clause 6 makes provision for a council to serve a notice on a property that has ceased to operate as an HMO, because its occupants have reduced below 3, but whom 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.

PART 2: LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Clause 7: Requirement for HMOs to be licensed Clause 7 requires every house in multiple occupation that is not exempted to be licensed. A licence for an HMO authorises its holder and any agent named on the licence to allow the HMO to be occupied in accordance with the licence conditions.

Clause 8: Applications for HMO licence Clause 8 outlines the detail that is taken into account when a council is considering an application for an HMO licence. The details of the procedural requirements, in relation to an application for an HMO licence, are contained within Schedule 2.

Clause 9: Breach of planning control Clause 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.

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

Clause 11: Satisfactory management arrangements Clause 11 outlines the considerations that a council may take into account with regards to management arrangements at application stage.

Clause 12: Overprovision Clause 12 states that, in deciding whether the granting of a licence will result in overprovision, councils must have regard to the number and

capacity of licensed HMOs in an area, the need for this type of accommodation in that locality and such other matters as the Department may specify through regulations.

Clause 13: Suitability of living accommodation for multiple occupation: 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.

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

Clause 15: Temporary exemption notice Clause 15 allows a council to grant a temporary exemption order if the owner of an unlicensed HMO applies. The owner must explain the steps to be taken to stop the premises from being an HMO, and the council must be satisfied that these steps will be successful. The HMO does not need a licence during the term of the order, which is three months unless extended in exceptional circumstances.

Clause 16: Extension of temporary exemption notice Clause 16 allows for the extension of temporary exemption notice if the council are satisfied that special circumstances exist.

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

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

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

Clause 20: Renewal of licence Clause 20 provides for the renewal of an existing licence which must be made before the current licence ceases to have effect. Overprovision (Clause 12) does not apply to applications to renew.

Clause 21: Application to renew: effect on existing licence Clause 21 specifies that where an application to renew a licence is made the existing licence has effect until: the date of the new licence if granted; the date the current licence ceases to have effect if refused or such later date as the council may specify.

Clause 22: Variation of licences Clause 22 sets out the procedure for varying a licence, which a council may do for its own reasons or at the request of the licence holder. If the council proposes the variation, it must give its reasons. The variation comes into force on a date calculated in the same way as for the start of a licence.

Clause 23: Revocation of licences Clause 23 allows a council to revoke a licence at any time. There are a number of possible grounds that may lead to the revocation of a licence. The licence holder or agent is no longer a suitable person under Clause 10; the accommodation is not fit for human habitation, the HMO management arrangements are not satisfactory, that the accommodation is no longer suitable for use as an HMO and cannot be made suitable; or that a condition of the licence has been breached. 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 will still be revoked.

Clause 24: Variation and revocation: procedure Schedule 4 makes provision about the procedure for varying or revoking a licence.

Clause 25: Restriction on applications Clause 25 prevents the council from considering an application from the same applicant for the same accommodation, or for any accommodation if refusal was on the grounds of the applicant not being a fit and proper person, where the granting of the licence creates a situation of overprovision or where the accommodation is not habitable or suitable for use as an HMO, within a year of refusal of an application. This restriction does not apply if the local authority is satisfied that there has been a material change of circumstances, for example if a physical feature which made the property unsuitable for licensing has been altered.

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

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

Clause 28: Change of ownership: effect on licence Clause 28 states that an existing HMO licence may not be transferred to a new owner (unless they are already joint licensees).

Clause 29: Death of sole licence holder: effect on licence 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 regulatory authority is satisfied that it is reasonable to extend it in order to wind up the holder's estate.

PART 3: ENFORCEMENT OF LICENSING REQUIREMENTS

Clause 30: Unlicensed HMO lists the 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).

Clause 31: Exceeding licensed occupancy or breach of licence conditions this clause outlines the fact that an offence is committed through breaching a condition in a licence or allowing an HMO to be occupied in excess of the number of persons authorised on the licence.

Clause 32: Untrue claim that HMO is licensed this clause outlines the fact that it is an offence to claim that an HMO licence, that has ceased to have effect, is still valid.

Clause 33: Agents not named in licence this clause outlines that an offence is committed if an agent is used who has not specified on the licence.

Clause 34: Reasonable excuse 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).

Clause 35: Power to require rectification of breach specifies 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, irrespective of whether the council has taken any other action or whether criminal proceedings have been commenced.

Clause 36: Revocation of rectification notice outlines the circumstances in, and process by which, a council may revoke a rectification notice.

Clause 37: Failure to comply with rectification notice if the owner of an HMO fails to take any action specified in the rectification notice, by the date given in the notice, they will have committed an offence.

Clause 38: Revocation orders and disqualification orders 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.

Clause 39: Revocations and disqualifications: appeals this clause specifies that a person may appeal against a revocation order or disqualification order.

Clause 40: Discharge of disqualification orders this clause specifies that the court which made the disqualification order may discharge the order with effect from such date as they may specify.

PART 4: STANDARDS OF HOUSING

CHAPTER 1: OVERCROWDING

Clause 41: Definition of overcrowding this clause defines an HMO as being overcrowded when the number of persons sleeping in it, contravene either the room standard or the space standard.

Clause 42: The room standard this clause outlines the circumstances which may be designated as a contravention of the room standard.

Clause 43: The space standard this clause outlines the circumstances which may be designated as a contravention of the space standard.

Clause 44: Overcrowding notices Clause 44 gives the council the power to issue a notice where they believe an HMO is, or likely to become overcrowded.

Clause 45: Contents of overcrowding notice Clause 45 provides that an overcrowding notice must either stipulate the maximum number of persons who may occupy each room or specify that a room is unsuitable for occupation

Clause 46: Requirement as to overcrowding generally 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.

Clause 47: Requirement not to permit new residents Clause 47 is very similar in its effect to Clause 46, except that it covers occupation by new residents i.e. anyone not resident when the notice was served

Clause 48: Notice requiring further information Clause 48 allows the council to serve a notice requiring further information in relation to overcrowding. The information requested may be, among other things, the number of people sleeping within the HMO, the names of those individuals, the number of households to which they belong and the rooms used by the individuals and households respectively.

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

CHAPTER 2: SUITABILITY FOR NUMBERS IN OCCUPATION

Clause 50: Suitability notice This clause makes arrangements about HMO suitability notices. Such a notice can be served on any living accommodation which the local authority believes to be an HMO which requires to be licensed, and which the local authority considers is not reasonably fit for occupation by the number of persons occupying it.

Clause 51: Contents of suitability notice Clause 51 directs that a suitability notice must specify what the council considers to be the maximum number of persons by whom the HMO is suitable to be occupied. A suitability notice must contain 1) the general occupancy requirements 2) the new resident's occupancy requirements; or 3) works requirements.

Clause 52: Occupancy requirements Clause 52 allows 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. The new resident's 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.

Clause 53: Statement of remedial work A statement of remedial work is a statement of work which the council considers would, if carried out in or to the HMO, make it suitable for occupation by the number of persons the councils knows or believes to be occupying it or such smaller number of persons as specified in the statement.

CHAPTER 3: HAZARDS

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

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

Clause 56: Contents of hazard notice: prohibitions A Hazard Notice may impose prohibitions on the use of any premises as the council considers appropriate in view of the hazard(s) to which the notice relates.

Clause 57: Contents of hazard notice: other matters A Hazard Notice must specify in relation to each hazard: the nature of the hazard; the HMO in which it exists; the deficiency giving rise to the hazard; the date on which the notice is made and any remedial action the council would consider, if taken in relation to the hazard, would result in the revocation of the notice.

Clause 58: Approvals as to the use of premises This clause states that any approval of the council with regards to a prohibition placed on a property must not be unreasonably withheld.

Clause 59: Works requirements Clause 59 specifies that the works requirement is that the owner carry out the work in or to the HMO for the purposes of removing the hazard.

CHAPTER 4: FURTHER PROVISIONS ABOUT NOTICES UNDER THIS PART

Clause 60: Offences lists some of the key criminal offences relating to HMO licensing.

Clause 61: Further provisions Schedule 5 makes further provisions about notices under this Part.

PART 5: SUPPLEMENTARY

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

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

Clause 64: Fixed penalty: service of notice Clause 63 allows an authorised officer of the council, who has reason to believe that an offence has been committed, to serve a fixed penalty notice.

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

Clause 66: Fixed penalty: power to alter amounts Clause 65 allows for the Department of Justice altering the amounts of fixed penalty notices through changes to the standard scale or other governing legislation.

Clause 67: Appeals Clause 66 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, although the county court may decide to hear a late appeal.

Clause 68: Council's statement of reasons for decisions which may be appealed This Clause specifies that when any decision, to which Clause 66 applies, is made then the council must include a statement informing the person they may request an explanation of the council's reason for the decision and of the right to the appeal of this decision under Clause 66.

Clause 69: Powers of court on appeal An appeal under Clause 66 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.

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

Clause 71: Power to obtain information from persons connected with the premises This clause allows a council to serve notice on a relevant person 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.

Clause 72: Power to require persons connected with the premises to produce documents This clause allows the council to specify in the notice documents which they require that they believe are in the persons custody or control.

Clause 73: Power to obtain information from other persons This clause outlines that the council may require a "relevant person" to provide the council, in writing, any "relevant information" under that person's custody or control. The clause then goes on to list those considered as relevant persons e.g. NIHE, educational institutions etc. as

well as what is considered relevant information e.g. information which indicates a building or part of a building may be an HMO.

Clause 74: Failure to comply with notice under section 70, 71 or 72 A person commits an offence if they refuse or fail to provide information requested under Clauses 70, 71 or 72 and does not have a reasonable excuse for that failure.

Clause 75: Unauthorised disclosure of information obtained under section 72 An employee of the council commits an offence if they disclose, without lawful authority, any information acquired through their employment relating to accommodation that is, or is believed to be, an HMO.

Clause 76: Court to inform council of convictions This clause applied where a court convicts a person of any offence under this Bill, with the exception of an offence under Clause 74, and requires the clerk of the court to send to the council details of the conviction and sentence and a note of any revocation or disqualification order made by the court in consequence of the conviction.

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

Clause 78: Powers of entry: with warrant a lay magistrate may issue a warrant under this section authorising a person named in the warrant to enter and search the premises specified in the warrant. The warrant may only be issued for two reasons

1) If, a person acting on behalf of the council, reasonably requires to enter an 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 76(1) (a), (b) & (c).

2) If the premises are unoccupied or applying to the owners or occupiers for entry would defeat the purpose of the entry or the search entry has already been sought under Clause 76 but has been refused.

Clause 79: Powers of entry: supplementary provisions This clause outlines the additional provisions associated with entering premises under Clauses 76 or 77.

Clause 80: Application by owner where consent withheld This clause makes provision for a court of summary jurisdiction to grant the necessary consent to take action where that consent has been unreasonably withheld by a person involved with the property.

Clause 81: Obstructions This clause makes provision for where any person required, authorised or entitled to carry out work for, or on behalf of the council is obstructed in carrying out their duties. A court of summary jurisdiction may, upon application, order an individual to allow the authorised person to carry out the action in question. Any person failing to comply with this order is guilty of an offence.

Clause 82: Effect of moving from accommodation for works to be carried out This clause outlines that where a person vacates a premises for the purposes of a works requirement, their tenancy or other occupancy arrangement is unaffected and is taken to not have been terminated, altered or varied. When the person regains lawful occupation they do so under the same terms.

Clause 83: HMOs occupied in breach of the Act This clause specified that any HMO occupied in breach of the Act does not affect the requirement of the repayment of rent or any other provision of such a tenancy or occupancy arrangement.

Clause 84: Fees This clause makes provisions concerning fees, including the maximum amounts to be charged, how fees are to be calculated, and circumstances in which no fee is to be payable, or in which fees are to be refunded.

Clause 85: Guidance A council must have regard to guidance issued by the Department about the exercise of its HMO licensing functions.

Clause 86: Regulations and orders This clause lists some of the regulations contained within the Bill, whether they are subject to affirmative or negative resolution and the bodies the Department must consult with when making certain regulations.

Clause 87: General notices This clause directs that any of the notices listed must be given in writing and published in such manner as the council considers appropriate.

Clause 88: Interpretation This clause defines a number of terms used throughout the Bill.

Clause 89: Repeals and consequential amendments This clause gives effect to the repeals and consequential amendments set out in Schedule 7 of the Bill.

Clause 90: Commencement Clause 88 enables the Department to make provision by order as to the day or days when the provisions of this Bill, excluding Clause 82 to 84, 88 and 89, come into operation. The listed clauses will come into operation upon receiving Royal Assent.

Clause 91: Short title Clause 89 provides that the Act shall be known as the Houses in Multiple Occupation Act (Northern Ireland) 2015.

SCHEDULES:

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

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

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

Part 1: Provision applying to all notices that require works

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

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

Schedule 5: Part 4 notices: further provisions Schedule 5 contains the detail about the serving and 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

Schedule 6: Definitions for the purpose of section 72 Schedule 6 contains definitions of terms used in Clause 72 of the Bill.

Schedule 7: Repeals and consequential amendments This schedule contains the detail of the repeals and consequential amendments resulting from the introduction of this Bill.

FINANCIAL EFFECTS OF THE BILL

9. The financial assistance currently availed of by the NIHE, in operating the current registration system, will transfer directly across to councils. However, there may be additional set up, I.T. and administration costs associated with introducing the new system. These additional costs will be identified and monitored in our ongoing meetings with councils.

HUMAN RIGHTS ISSUES

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

EQUALITY IMPACT ASSESSMENT

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

REGULATORY IMPACT ASSESSMENT

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

LEGISLATIVE COMPETENCE

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

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