

WHAT IS A HOUSE IN MULTIPLE OCCUPATION? (HMO)

Definition of a House in Multiple Occupation

The Housing Act 2004 (S254)
introduced a new definition of an
HMO from April 2006

What do you think – Is this an HMO?



- Owner, his partner and child occupying a 2 storey house
- This is a single household property
- But.....

Is this an HMO? cont.....



- The Owner's parents move in
- Is this now an HMO?
- No. As relatives of the owner they are still counted as members of the same household.

Is this an HMO? cont.....



- To help with the credit crunch the owner rents a room to an unrelated couple. They share the use of kitchen & bathroom. Is this an HMO?
- No.
- But what if.....

Is this an HMO? cont.....



- Money is tight so the owner rents another room to a single lady. She too shares the kitchen & bathroom. Is this an HMO?
- Yes!
- Why? The Act allows the owner and their family to occupy a property with up to 2 lodgers.
- The single lady took the number of lodgers to 3 creating an HMO

Is this an HMO? cont.....



- Two friends rent a house. They each have a bedroom but share amenities in the property. Both names appear on the joint tenancy agreement
- Is this an HMO?
- No. But...

Is this an HMO? cont.....



- They invite a friend to move in. He pays rent for his room to the joint tenants. Their landlord knows nothing about this arrangement. HMO now?
- Yes! This is an HMO
- Why? Section 254 (2) states a HMO can be an entire house or flat which has 3 or more tenants who form 2 or more households and who share amenities such as kitchen, bathroom, WC

Housing Act 2004 S254

Meaning of "house in multiple occupation"

For the purposes of the Act a building or a part of a building is a "house in multiple occupation" if it meets:

- The Standard Test
- The Converted Building Test
- The Self-Contained Flat Test
- Self Contained Flats - Section 257

The Standard Test

- Any building in which 2 or more families/individuals share basic amenities.
- So an entire house or flat which is let to 3 or more tenants who form 2 or more households and who share a kitchen, bathroom or toilet is a HMO

The following are 'households' for the purposes of the Housing Act 2004

- Members of the same family living together including:
- Couples married to each other or living together as husband and wife (or in an equivalent relationship in the case of persons of the same sex)
- Relatives living together, including parents, grandparents, children (and step-children), grandchildren, brothers, sisters, uncles, aunts, nephews, nieces or cousins
- Half-relatives will be treated as full relatives. A foster child living with his foster parent is treated as living in the same household as his foster parent.
- Any domestic staff are also included in the household if they are living rent-free in accommodation provided by the person for whom they are working.

NOTE:

This means that groups of students can no longer be defined as living as one household

The Converted Building Test

- A house which has been converted entirely into bedsits or other non-self-contained accommodation and which is let to 3 or more tenants who form 2 or more households and who share kitchen, bathroom or toilet facilities

The Self Contained Flat Test

A part of a building meets the self-contained flat test if

- **it consists of a self-contained flat AND**
- **the living accommodation is occupied by persons who do not form a single household**
- **their occupation of the living accommodation constitutes the only use of that accommodation**
- **two or more of the households who occupy the living accommodation share one or more basic amenities**

- **So, self-contained flats will be HMOs if they are occupied by three or more persons (at least one of whom is unrelated) and meet all the other criteria listed above.**

S257 Self Contained Flats

- A building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations i.e. before 1 June 1992 and more than 1/3 of the flats are let on short-term tenancies

Remember

- In order to be a HMO the property must be used as the tenants' only or main residence and it should be used solely or mainly to house tenants.
- Properties let to students and migrant workers will be treated as their only or main residence and the same will apply to properties which are used as domestic refuges.

Are there any exceptions to the definition of HMOs?

- 2 person flat share; a property, or part of a property, lived in by no more than 2 'households' each of which consists of just 1 person.
- A property where the landlord and his household is resident with up to 2 tenants.
- Buildings occupied entirely by freeholders or long leaseholders.
- Buildings managed or controlled by a public body (such as the police or the NHS), a local housing authority or a registered social landlord.
- A building where the residential accommodation is ancillary to the main use of the building, for example, religious buildings, conference centres etc.

Are there any exceptions to the definition of HMOs? Continued.....

- Buildings which are already regulated (and where the description of the building is specified in regulations), such as care homes, bail hostels etc. (However, domestic refuges are not exempt.)
- Purpose built blocks of flats are not HMOs. However, if any of the individual flats are shared by more than 2 tenants in two or more households they will be HMOs.
- Houses which are converted entirely into self-contained flats will only be HMOs if the conversion did not meet the standard of the 1991 Building Regulations and more than 1/3 of the flats are let out on short term tenancies.

HMO Landlord's Responsibilities

- Contact your Private Sector Housing Team
- Regardless of whether an HMO is licensable, it must meet minimum amenity standards, room sizes and have adequate levels of fire protection and means of escape
- Landlords may need planning consent for a change of use of the dwelling from single to multi occupancy and further enquiries should be made via your council's planning department
- The Regulatory Reform (Fire Safety) Order 2005. Some HMOs will need to comply with this document, (often referred to as the RRO or just Fire Safety Order). These will typically be houses let as bedsits, hostels and blocks of flats. The local fire safety service will be the enforcing authority for shared access areas in these lettings.

Changes in HMO Standards October 2018

New minimum bedroom sizes:

Occupation	Room size
One person aged over 10 years	Not less than 6.51 sqm
Two persons aged over 10 years	Not less than 10.22 sqm
One person aged under 10 years	Not less than 4.64 sqm
No occupation permitted	Less than 4.64 sqm

The room sizes will apply to new licence applications and renewals but the Council has the discretion to provide a maximum of an 18 month grace period to allow Landlords to take appropriate steps to comply with room size licensing conditions.

The licence holder must comply with the Council's scheme for storage and disposal of household waste. Tenants are still responsible for disposing of their waste in the designated space.

Some HMO's must have a licence

Part 2 of Housing Act 2004 - Amended October 2018

Broadly, a HMO must have a licence if all of the following apply:

- It is an HMO
- It is occupied by 5 or more people

There are some exemptions including

- a purpose built flat being occupied by 5 persons as an HMO which is situated in a block comprising 3 or more self contained flats.
- Owners who are live in landlords need to have 4 lodgers to become licensable as landlord (plus their family) only count as one person