

Mandatory HMO licensing applies to all privately rented HMOs of three or more storeys and occupied by five or more people who form more than one household.

Local Authorities will be able to impose conditions on licences such as requirements for licensed properties to be occupied by a specified maximum number of occupants, and that there are adequate amenities in place, whilst landlords will need to be identified as being fit and proper in terms of their suitability to manage the property.

It is stated that the HMO licensing provisions are not intended to reduce the number of HMOs, or to change their use, but are aimed to increase the quality of existing HMOs in the private rented sector in terms of both physical conditions and management standards, some landlords would beg to differ, but it is hoped all reputable landlords will embrace the new schemes and work with the Local Authorities.

However, although there are HMOs which by law have to be licensed, landlords should be aware that there are in reality two classes of HMO:

Under the changes in the Housing Act 2004, if a landlord lets a property which is one of the following types it is a House in Multiple Occupation:

- An entire house or flat which is let to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet (for a definition of household please see the frequently asked questions)
- A house which has been converted entirely into bedsits or other non-self-contained accommodation and which is let to three or more tenants who form two or more households and who share kitchen, bathroom or toilet facilities.
- A converted house which contains one or more flats which are not wholly self-contained (ie the flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by three or more tenants who form two or more households.
- A building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flats are let on short-term tenancies

In order to be an 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.

Landlords need to be aware that HMOs are therefore applicable to properties with three or more tenants from two or more households. Clearly, this will cover a lot of student let situations and although there is currently no mandatory licensing of these properties, the Local

Authority may impose conditions and all landlords with such properties should contact their Local Authority.

Below is a Schedule that Legalhelpers attaches to HMO Tenancy Agreements, which provide as a lot of information about the various parties to an agreement's rights and responsibilities towards each other.

Schedule 1: Landlord's, Manager's & Tenant's Obligations for Houses in Multiple Occupation

- 1. Definitions:** (a) "the Act" means the Housing Act 2004; (b) "fixtures, fittings or appliances" are: (i) lighting, space heating or water heating appliances; (ii) toilets, baths, showers, sinks, or wash basins or any cupboards, shelving or fittings supplied in a bathroom or lavatory; (iii) cupboards, shelving or appliances used for the storage, preparation or cooking of food; and (iv) washing machines or other laundry appliances; and (c) "the manager", in relation to an HMO, means the person managing the HMO.
- 2. Managers duties:** (a) the manager's duty shall only apply in relation to such parts of the HMO over which it would be reasonable to expect the licence holder, in all the circumstances, to exercise control; and (b) the manager's duty to maintain or keep in repair is to be construed as requiring a standard of maintenance or repair that is reasonable in all the circumstances, taking account of the age, character and prospective life of the house and the locality in which it is situated.
- 3. Contact Information:** the manager must ensure that his name, address and any telephone contact number are clearly displayed in a prominent position in the common parts of the HMO so that they may be seen by all occupiers.
- 4. Safety measures:** the manager must ensure that all means of escape from fire in the HMO are: (a) kept free from obstruction; and (b) maintained in good order and repair.
- 5. Fire Safety:** the manager must ensure that any fire fighting equipment and fire alarms are maintained in good working order. The manager must ensure that all notices indicating the location of means of escape from fire are displayed in positions within the common parts of the HMO that enable them to be clearly visible to all the occupiers.
- 6. General Safety:** the manager must take all such measures as are reasonably required to protect the occupiers of the HMO from injury, having regard to: (a) the design of the HMO; (b) the structural conditions in the HMO; and (c) the number of flats or occupiers in the HMO. In performing this the manager must in particular; (a) in relation to any roof or balcony that is unsafe, either ensure that it is made safe or take all reasonable measures to prevent access to it for so long as it remains unsafe; and (b) in relation to any window the sill of which is at or near floor level, ensure that bars or other such safeguards as may be necessary are provided to protect the occupiers against the danger of accidents which may be caused in connection with such windows.
- 7. Water supply and drainage:** the manager must ensure that the water supply and drainage system serving the HMO is maintained in good, clean and working condition and in particular he must ensure that: (a) any tank, cistern or similar receptacle used for the storage of water for drinking or other domestic purposes is kept in a good, clean and working condition, with a cover kept over it to keep the water in a clean and proper

condition; and (b) any water fitting which is liable to damage by frost is protected from frost damage. (c) the manager must not unreasonably cause or permit the water or drainage supply that is used by any occupier at the HMO to be interrupted. "Water fitting" means a pipe, tap, cock, valve, ferrule, meter, cistern, bath, water closet or soil pan used in connection with the supply or use of water, but the reference in this definition to a pipe does not include an overflow pipe or the mains supply pipe.

- 8. Gas & Electricity:** the manager must supply to the local housing authority within 7 days of receiving a request in writing from that authority the latest gas appliance test certificate he has received in relation to the testing of any gas appliance at the HMO by a recognised engineer. A "recognised engineer" means an engineer recognised by the Council of Registered Gas Installers as being competent to undertake such testing. The manager must: (a) ensure that every fixed electrical installation is inspected and tested at intervals not exceeding five years by a person qualified to undertake such inspection and testing; (b) obtain a certificate from the person conducting that test, specifying the results of the test; and (c) supply that certificate to the local housing authority within 7 days of receiving a request in writing for it from that authority. (d) the manager must not unreasonably cause the gas or electricity supply that is used by any occupier within the HMO to be interrupted.
- 9. Common Parts:** the manager must ensure that all common parts of the HMO are: (a) maintained in good and clean decorative repair; (b) maintained in a safe and working condition; and (c) kept reasonably clear from obstruction. In particular ensure; (a) all handrails and banisters are at all times kept in good repair; (b) such additional handrails or banisters as are necessary for the safety of the occupiers of the HMO are provided; (c) any stair coverings are safely fixed and kept in good repair; (d) all windows and other means of ventilation within the common parts are kept in good repair; (e) the common parts are fitted with adequate light fittings that are available for use at all times by every occupier of the HMO; and (f) subject to paragraph (3), fixtures, fittings or appliances used in common by two or more households within the HMO are maintained in good and safe repair and in clean working order. (3) The duty imposed by paragraph (f) does not apply in relation to fixtures, fittings or appliances that the occupier is entitled to remove from the HMO or which are otherwise outside the control of the manager.
- 10. The manager must ensure:** (a) outbuildings, yards and forecourts which are used in common by two or more households living within the HMO are maintained in repair, clean condition and good order; (b) any garden belonging to the HMO is kept in a safe and tidy condition; and (c) boundary walls, fences and railings (including any basement area railings), in so far as they belong to the HMO, are kept and maintained in good and safe repair so as not to constitute a danger to occupiers (d) if any part of the HMO is not in use the manager shall ensure that such part, including any passage and staircase directly giving access to it, is kept reasonably clean and free from refuse and litter. "Common parts" means: (i) the entrance door to the HMO and the entrance doors leading to each unit of living accommodation within the HMO; and (ii) all such parts of the HMO as comprise staircases, lifts, passageways, corridors, halls, lobbies, entrances, balconies, porches and steps that are used by the occupiers of the units of living accommodation within the HMO to gain access to the entrance doors of their respective unit of living accommodation.
- 11. Living accommodation:** the manager must ensure that each unit of living accommodation within the HMO and any furniture supplied with it are in clean condition at the beginning of a person's occupation of it. In relation to each part of the HMO that is used as living

accommodation, the manager must ensure: (a) the internal structure is maintained in good repair; (b) any fixtures, fittings or appliances within the part are maintained in good repair and in clean working order; and (c) every window and other means of ventilation are kept in good repair. Note: these duties do not require the manager to carry out any repair the need for which arises in consequence of use by the occupier of his living accommodation otherwise than in a tenant-like manner. A person shall be regarded as using his living accommodation otherwise than in a tenant-like manner where he fails to treat the property in accordance with the covenants or conditions contained in his lease or licence or otherwise fails to conduct himself as a reasonable tenant or licensee would do.

12. Waste disposal facilities: the manager must; (a) ensure that sufficient bins or other suitable receptacles are provided that are adequate for the requirements of each household occupying the HMO for the storage of refuse and litter pending their disposal; and (b) make such further arrangements for the disposal of refuse and litter from the HMO as may be necessary, having regard to any service for such disposal provided by the local authority.

13. Every occupier of the HMO must: (a) conduct himself in a way that will not hinder or frustrate the manager in the performance of his duties; (b) allow the manager, for any purpose connected with the carrying out of the above duties, at all reasonable times to enter any living accommodation or other place occupied by that person; (c) provide the manager, at his request, with such information as he may reasonably require for the purpose of carrying out any such duty; (d) take reasonable care to avoid causing damage to anything which the manager is under a duty to supply, maintain or repair under these Regulations; (e) store and dispose of litter in accordance with the arrangements made by the manager; (f) comply with the reasonable instructions of the manager in respect of any means of escape from fire, the prevention of fire and the use of fire equipment.

14. Licenses: All of the above requirements relate to all HMOs, basically a HMO will exist where there are 3 or more people, from 2 or more households sharing the premises. In relation to premises where there are 3 or more stories used in connection with occupation, with 5 or more people from 2 or more households the property will additionally require a 'mandatory licence' from the Local Authority and there are some extra conditions. Furthermore, even when a mandatory licence is not required Landlords & Managers are strongly advised to contact their Local Authority to ensure the particular Local Authority has not imposed any other conditions in relation to HMOs.

Contact Us

Please visit our website at www.legalhelpers.co.uk for more information. Alternatively, you may contact us:

Email: info@legalhelpers.co.uk

Phone: 0870 321 9865

Fax: 0870 321 9866

Post: Legalhelpers Limited, FREEPOST MID-23567, Stoke on Trent, ST1 5BR