



2016 CHAPTER 22

PART 4

Standards of housing

CHAPTER 1

Overcrowding

Definition

Definition of overcrowding

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

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—

- (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

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—

- (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—

- (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.

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
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
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

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

Status: This is the original version (as it was originally enacted).

<i>Floor area of room</i>	<i>Permitted number for the room</i>
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

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).

Contents of overcrowding notice

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.

(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).

(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.

(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.

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

Requirement as to overcrowding generally

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

- (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).

(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

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- (b) the maximum set for each room is not exceeded.

Requirement not to permit new residents

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 so 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

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

- 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

- 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

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)).

(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.

(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.

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

Occupancy requirements

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.

(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 new resident's occupation results in the HMO being occupied by more than the maximum number of persons.

(3) In this section—

- (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

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
- (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 out 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)—

- (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) 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.

CHAPTER 3

Hazards

Definition of hazard

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

- (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.
- (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

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.

(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.

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

- (a) section 57(4) 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

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.

(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—

- (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.

(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
- (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
- (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.

(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

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.

(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

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.

(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.

(5) A hazard notice that includes a works requirement must state that, if the work is carried out 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.

(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.

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

Approvals as to use of premises

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

(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.

(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

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

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