

Draft Regulations laid before Parliament under section 250(6)(f) of the Housing Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No.

HOUSING, ENGLAND

The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018

Made - - - - *****
Coming into force - - *1st October 2018*

The Secretary of State, in exercise of the powers conferred by sections 250(2) and 261(1) of, and paragraph 3 of Schedule 4 to, the Housing Act 2004⁽¹⁾, makes the following Regulations:

A draft of this instrument was laid before and approved by a resolution of each House of Parliament in accordance with section 250(6)(f) of the Housing Act 2004.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 and come into force on 1st October 2018.

(2) The amendments to the Housing Act 2004 made by regulation 2 do not apply to a licence granted before 1st October 2018.

Amendment to Schedule 4 to the Housing Act 2004

2. In Schedule 4 to the Housing Act 2004 (licences under Parts 2 and 3: mandatory conditions), after paragraph 1 insert—

“Additional conditions to be included in licences under Part 2: floor area etc

1A.—(1) Where the HMO is in England, a licence under Part 2 must include the following conditions.

(2) Conditions requiring the licence holder—

(1) 2004 c.34. There are amendments to section 250 and Schedule 4 which are not relevant to this instrument.

- (a) to ensure that the floor area of any room in the HMO used as sleeping accommodation by one person aged over 10 years is not less than 6.51 square metres;
 - (b) to ensure that the floor area of any room in the HMO used as sleeping accommodation by two persons aged over 10 years is not less than 10.22 square metres;
 - (c) to ensure that the floor area of any room in the HMO used as sleeping accommodation by one person aged under 10 years is not less than 4.64 square metres;
 - (d) to ensure that any room in the HMO with a floor area of less than 4.64 square metres is not used as sleeping accommodation.
- (3) Conditions requiring the licence holder to ensure that—
- (a) where any room in the HMO is used as sleeping accommodation by persons aged over 10 years only, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence;
 - (b) where any room in the HMO is used as sleeping accommodation by persons aged under 10 years only, it is not used as such by more than the maximum number of persons aged under 10 years specified in the licence;
 - (c) where any room in the HMO is used as sleeping accommodation by persons aged over 10 years and persons aged under 10 years, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence and the maximum number of persons aged under 10 years so specified.
- (4) Conditions which apply if—
- (a) any of the conditions imposed pursuant to sub-paragraph (2) or (3) have been breached in relation to the HMO,
 - (b) the licence holder has not knowingly permitted the breach, and
 - (c) the local housing authority have notified the licence holder of the breach,
- and which require the licence holder to rectify the breach within the specified period.
- (5) In sub-paragraph (4) the specified period means the period, of not more than 18 months beginning with the date of the notification, which is specified in the notification.
- (6) Conditions requiring the licence holder to notify the local housing authority of any room in the HMO with a floor area of less than 4.64 square metres.
- (7) In this paragraph a reference to a number of persons using a room in an HMO as sleeping accommodation does not include a person doing so as a visitor of an occupier⁽²⁾ of the HMO.
- (8) For the purposes of this paragraph a room is used as sleeping accommodation if it is normally used as a bedroom, whether or not it is also used for other purposes.
- (9) Any part of the floor area of a room in relation to which the height of the ceiling is less than 1.5 metres is not to be taken into account in determining the floor area of that room for the purposes of this paragraph.
- (10) This paragraph does not apply to an HMO which is managed by a charity registered under the Charities Act 2011 and which—
- (a) is a night shelter, or

(2) For the definition of occupier see section 262(6) of the Housing Act 2004, c.34.

- (b) consists of temporary accommodation for persons suffering or recovering from drug or alcohol abuse or a mental disorder.

Time for compliance with conditions under paragraph 1A(2) and (3)

1B.—(1) This paragraph applies in relation to an HMO in England in respect of the first licence granted on or after 1st October 2018 in relation to the HMO, regardless of whether a licence was in force in relation to the HMO immediately before that date.

(2) If the local housing authority consider that, at the time the licence is granted, the licence holder is not complying with one or more of the conditions of the licence imposed pursuant to paragraph 1A(2) and (3), the authority must when granting the licence provide the licence holder with a notification specifying the condition or conditions and the period within which the licence holder is required to comply with the condition or conditions.

(3) The period specified in the notification must not exceed 18 months from the date of the notification.

(4) Within the period specified in the notification—

- (a) the local housing authority may not revoke the licence for a breach (or repeated breach) of any condition of the licence specified in the notification,
- (b) the licence holder does not commit an offence under section 72(3) in respect of any failure to comply with such a condition, and
- (c) the local housing authority may not impose a financial penalty under section 249A on the licence holder in respect of such a failure.

(5) Sub-paragraphs (2) to (4) do not apply if, before the licence was granted, the licence holder was convicted of an offence under section 72(2) or (3) in relation to the HMO.

Additional conditions to be included in licences under Part 2: household waste

1C. Where the HMO is in England, a licence under Part 2 must include conditions requiring the licence holder to comply with any scheme which is provided by the local housing authority to the licence holder and which relates to the storage and disposal of household waste at the HMO pending collection.”

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Date

Name
Minister for Housing and Planning
Ministry of Housing, Communities and Local
Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose duties on a landlord of a house in multiple occupation (“HMO”) in relation to the size of rooms available as sleeping accommodation, their maximum occupancy and compliance with local housing authority household waste storage and disposal schemes.

Regulation 2 inserts new paragraphs 1A, 1B and 1C into Schedule 4 to the Housing Act 2004 (c. 34) (“the 2004 Act”). This has the effect of introducing new conditions and qualifying provisions in relation to those conditions which require a landlord (a) to comply with minimum standards in relation to the useable floor area of rooms available as sleeping accommodation, (b) not to exceed the maximum number of occupants who are permitted to use each room as sleeping accommodation and (c) to comply with any household waste storage and disposal schemes provided by the applicable local housing authority. The conditions must be included in a licence under Part 2 of that Act of a house in England and apply only to licences granted or renewed on or after 1st October 2018.

New paragraph 1B requires local housing authorities, when granting the first licence of an HMO on or after 1st October 2018, to allow a period of grace for compliance with conditions imposed under new paragraph 1A(2) and (3). However, that requirement does not apply where the licence holder was convicted of an offence under section 72(2) or (3) of the 2004 Act in relation to the HMO before the licence was granted.

An impact assessment has been prepared in relation to these Regulations. The assessment will be placed in the Library of each House of Parliament and made available on www.gov.uk. Copies may be obtained from the Ministry of Housing, Communities and Local Government, 2 Marsham Street, London, SW1P 4DF.