



Housing Act 2004

2004 CHAPTER 34

PART 2

LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Enforcement

72 Offences in relation to licensing of HMOs

- (1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.
- (2) A person commits an offence if—
 - (a) he is a person having control of or managing an HMO which is licensed under this Part,
 - (b) he knowingly permits another person to occupy the house, and
 - (c) the other person's occupation results in the house being occupied by more households or persons than is authorised by the licence.
- (3) A person commits an offence if—
 - (a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 67(5), and
 - (b) he fails to comply with any condition of the licence.
- (4) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time—
 - (a) a notification had been duly given in respect of the house under section 62(1), or
 - (b) an application for a licence had been duly made in respect of the house under section 63,and that notification or application was still effective (see subsection (8)).

Status: Point in time view as at 06/04/2017.

Changes to legislation: Housing Act 2004, Section 72 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) In proceedings against a person for an offence under subsection (1), (2) or (3) it is a defence that he had a reasonable excuse—
- (a) for having control of or managing the house in the circumstances mentioned in subsection (1), or
 - (b) for permitting the person to occupy the house, or
 - (c) for failing to comply with the condition,
- as the case may be.
- (6) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to [^{F1}a fine] .
- (7) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- [^{F2}(7A) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).
- (7B) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.]
- (8) For the purposes of subsection (4) a notification or application is “effective” at a particular time if at that time it has not been withdrawn, and either—
- (a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or
 - (b) if they have decided not to do so, one of the conditions set out in subsection (9) is met.
- (9) The conditions are—
- (a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of [^{F3}the appropriate tribunal]) has not expired, or
 - (b) that an appeal has been brought against the authority’s decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.
- (10) In subsection (9) “relevant decision” means a decision which is given on an appeal to the tribunal and confirms the authority’s decision (with or without variation).

Textual Amendments

- F1** Words in s. 72(6) substituted (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 37(2)** (with reg. 5(1))
- F2** [S. 72\(7A\)\(7B\)](#) inserted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 9 para. 3**; S.I. 2017/281, reg. 4(f)
- F3** Words in s. 72(9)(a) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 154** (with Sch. 3)

Commencement Information

- I1** S. 72 wholly in force at 16.6.2006; s. 72 not in force at Royal Assent see s. 270(4)(5); s. 72(2)(3)(5)(6)(7) in force for E. at 6.4.2006 and s. 72 in force for E. in so far as not already in force at 6.7.2006

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by S.I. 2006/1060, **art. 2(1)(b)(2)(b)** (with Sch.); s. 72 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Status:

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