



Housing Act 2004

2004 CHAPTER 34

PART 2

LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Enforcement

73 Other consequences of operating unlicensed HMOs: rent repayment orders

- (1) For the purposes of this section an HMO is an “unlicensed HMO” if—
 - (a) it is required to be licensed under this Part but is not so licensed, and
 - (b) neither of the conditions in subsection (2) is satisfied.
- (2) The conditions are—
 - (a) that a notification has been duly given in respect of the HMO under section 62(1) and that notification is still effective (as defined by section 72(8));
 - (b) that an application for a licence has been duly made in respect of the HMO under section 63 and that application is still effective (as so defined).
- (3) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of—
 - (a) any provision requiring the payment of rent or the making of any other periodical payment in connection with any tenancy or licence of a part of an unlicensed HMO, or
 - (b) any other provision of such a tenancy or licence.
- (4) But amounts paid in respect of rent or other periodical payments payable in connection with such a tenancy or licence may be recovered in accordance with subsection (5) and section 74.
- (5) If—
 - (a) an application in respect of an HMO is made to [^{F1}the appropriate tribunal] by the local housing authority or an occupier of a part of the HMO, and

Status: Point in time view as at 01/07/2013. This version of this provision has been superseded.

Changes to legislation: Housing Act 2004, Section 73 is up to date with all changes known to be in force on or before 29 July 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)

- (b) the tribunal is satisfied as to the matters mentioned in subsection (6) or (8), the tribunal may make an order (a “rent repayment order”) requiring the appropriate person to pay to the applicant such amount in respect of the [^{F2}relevant award or awards of universal credit or the] housing benefit paid as mentioned in subsection (6)(b), or (as the case may be) the periodical payments paid as mentioned in subsection (8)(b), as is specified in the order (see section 74(2) to (8)).
- (6) If the application is made by the local housing authority, the tribunal must be satisfied as to the following matters—
- (a) that, at any time within the period of 12 months ending with the date of the notice of intended proceedings required by subsection (7), the appropriate person has committed an offence under section 72(1) in relation to the HMO (whether or not he has been charged or convicted),
- [^{F3}(b) that—
- (i) one or more relevant awards of universal credit have been paid (to any person); or
- (ii) housing benefit has been paid (to any person) in respect of periodical payments payable in connection with the occupation of a part or parts of the HMO ,]
- (c) that the requirements of subsection (7) have been complied with in relation to the application.
- [^{F4}(6A) In subsection (6)(b)(i), “relevant award of universal credit” means an award of universal credit the calculation of which included an amount under section 11 of the Welfare Reform Act 2012, calculated in accordance with Schedule 4 to the Universal Credit Regulations 2013 (housing costs element for renters) ([S.I. 2013/376](#)) or any corresponding provision replacing that Schedule, in respect of periodical payments payable in connection with the occupation of a part or parts of the HMO.]
- (7) Those requirements are as follows—
- (a) the authority must have served on the appropriate person a notice (a “notice of intended proceedings”)—
- (i) informing him that the authority are proposing to make an application under subsection (5),
- (ii) setting out the reasons why they propose to do so,
- (iii) stating the amount that they will seek to recover under that subsection and how that amount is calculated, and
- (iv) inviting him to make representations to them within a period specified in the notice of not less than 28 days;
- (b) that period must have expired; and
- (c) the authority must have considered any representations made to them within that period by the appropriate person.
- (8) If the application is made by an occupier of a part of the HMO, the tribunal must be satisfied as to the following matters—
- (a) that the appropriate person has been convicted of an offence under section 72(1) in relation to the HMO, or has been required by a rent repayment order to make a payment in respect of [^{F5}housing benefit paid in connection with occupation of a part or parts of the HMO,]
- [^{F5}(i) one or more relevant awards of universal credit, or

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- (ii) housing benefit paid in connection with occupation of a part or parts of the HMO ,]
 - (b) that the occupier paid, to a person having control of or managing the HMO, periodical payments in respect of occupation of part of the HMO during any period during which it appears to the tribunal that such an offence was being committed in relation to the HMO, and
 - (c) that the application is made within the period of 12 months beginning with—
 - (i) the date of the conviction or order, or
 - (ii) if such a conviction was followed by such an order (or vice versa), the date of the later of them.
- (9) Where a local housing authority serve a notice of intended proceedings on any person under this section, they must ensure—
- (a) that a copy of the notice is received by the department of the authority responsible for administering the housing benefit to which the proceedings would relate; and
 - (b) that that department is subsequently kept informed of any matters relating to the proceedings that are likely to be of interest to it in connection with the administration of housing benefit.
- (10) In this section—
- “the appropriate person”, in relation to any payment of [^{F6}universal credit or] housing benefit or periodical payment payable in connection with occupation of a part of an HMO, means the person who at the time of the payment was entitled to receive on his own account periodical payments payable in connection with such occupation;
- “housing benefit” means housing benefit provided by virtue of a scheme under section 123 of the Social Security Contributions and Benefits Act 1992 (c. 4);
- “occupier”, in relation to any periodical payment, means a person who was an occupier at the time of the payment, whether under a tenancy or licence or otherwise (and “occupation” has a corresponding meaning);
- [^{F7} “ periodical payments ” means periodical payments in respect of which housing benefit may be paid by virtue of regulation 10 of the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) or any corresponding provision replacing that regulation.]
- [^{F7}“periodical payments” means—
- (a) payments in respect of which an amount under section 11 of the Welfare Reform Act 2012 may be included in the calculation of an award of universal credit, as referred to in paragraph 3 of Schedule 4 to the Universal Credit Regulations 2013 (“relevant payments”) ([S.I. 2013/376](#)) or any corresponding provision replacing that paragraph; and
 - (b) periodical payments in respect of which housing benefit may be paid by virtue of regulation 12 of the Housing Benefit Regulations 2006 or any corresponding provision replacing that regulation;]
- (11) For the purposes of this section an amount which—
- (a) is not actually paid by an occupier but is used by him to discharge the whole or part of his liability in respect of a periodical payment (for example, by offsetting the amount against any such liability), and
 - (b) is not an amount of [^{F8}universal credit or] housing benefit,

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is to be regarded as an amount paid by the occupier in respect of that periodical payment.

Textual Amendments

- F1** Words in s. 73(5)(a) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), [art. 1](#), [Sch. 1 para. 155](#) (with [Sch. 3](#))
- F2** Words in s. 73(5) inserted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), [18\(2\)\(a\)](#)
- F3** S. 73(6)(b) substituted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), [18\(2\)\(b\)](#)
- F4** S. 73(6A) inserted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), [18\(2\)\(c\)](#)
- F5** Words in s. 73(8)(a) substituted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), [18\(2\)\(d\)](#)
- F6** Words in s. 73(10) inserted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), [18\(2\)\(e\)\(i\)](#)
- F7** Definition in s. 73(10) substituted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), [18\(2\)\(e\)\(ii\)](#)
- F8** Words in s. 73(11)(b) inserted (E.) (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), [18\(2\)\(f\)](#)

Commencement Information

- I1** S. 73 wholly in force at 16.6.2006; s. 73 not in force at Royal Assent see s. 270(4)(5); s. 73 in force for E. at 6.7.2006 by [S.I. 2006/1060](#), [art. 2\(2\)\(a\)](#) (with [Sch.](#)); s. 73 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

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