

Changes to Mandatory HMO Licensing 1st October 2018

In December 2017 the [government announced](#) that it would proceed with extending mandatory property licensing of houses in multiple occupations (HMOs). The necessary regulations are to be brought into force in October 2018.

What are the proposed changes?

The government has now decided to extend the scope of mandatory licensing. Mandatory licensing will include:

- All HMOs with 5 or more occupiers living in 2 or more households regardless of the number of storeys. Effectively this means the storey requirement will be removed from the current definition.
- Purpose built flats where there are up to two flats in the block and one or both of the flats are occupied by 5 or more persons in 2 or more separate households. This will apply regardless of whether the block is above or below commercial premises. This will bring certain flats above shops on high streets within mandatory licensing as well as small blocks of flats which are not connected to commercial premises.

As is the case now, it is the individual HMO that is required to be licensed and not the building within which the HMO is situated. This means that where a building has two flats and each is occupied by 5 persons living in 2 or more households, each flat will require a separate HMO licence.

<http://www.legislation.gov.uk/uksi/2018/221/made>

What are the proposals for implementing the changes?

The government proposes to implement the extension of mandatory licensing in two phases.

Phase one will last for a few months prior to the regulations changing. During this 'grace period' the new licensing regime will be publicised, applications will be processed and licences issued and be **valid from the start date of 01 October 2018**. Landlords that did not require a HMO licence before the change in the rules will not be prosecuted during phase one for failure to license a licensable HMO and will not be exposed to rent repayment orders (RROs).

However, landlords will be expected to apply for a licence during the grace period and they are encouraged to do so as they will not be able to serve valid section 21 notices seeking possession until an application for a licence has been duly made (unless the landlord has instead applied for a temporary exemption in order to remove their property from licensing).

The government's response is clear that the grace period does not mean that applying for a licence is optional. It just means that the criminal sanctions for not having a licence will be put on hold. Once the it is over and phase two begins any landlord without a licence will be subject to the full range of penalties for failing to comply.

<http://www.legislation.gov.uk/uksi/2018/221/memorandum/contents>

What happens if I don't get a licence?

There are serious consequences for landlords and letting agents who do not obtain licences for licensable properties. The local authority can bring a prosecution against the landlord in the magistrates court and fines for Housing Act 2004 offences have been unlimited since March 2015. Local authorities are also able to issue landlords with civil penalty notices of up to £30,000 per offence as an alternative to prosecution.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/606653/Civil_Penalties_guidance.pdf

Tenants and local authorities have additional remedies in the form of RROs where rent or housing benefit can be claimed back from the landlord by order of the First-Tier Tribunal.

The new rules extending mandatory licensing are coming into force in October 2018. Landlords should start reviewing their properties now in preparation for the changes.