

LANDLORDS' GUIDE TO THE HOUSING ACT 2004

INTRODUCTION

This is a brief guide to introduce you to the contents of the new Act and what it will mean to landlords.

The Housing Act 2004 was passed on 18th November 2004.

The current Housing Act 1985 (as amended) will be repealed by the 2004 Act and each part (detailed below) will be phased in over the next year.

The Housing Act 2004 covers 7 parts. Only those parts considered relevant to landlords have been summarised:

- Housing Conditions and Enforcement**
- Definition of a House in Multiple Occupation**
- Licensing of Houses in Multiple Occupation**
- Selective Licensing**
- Interim and Final Management Orders**
- Empty Dwelling Management Orders**
- Home Information Packs**

❑ **Housing Conditions and Enforcement**

Introduces a new method for assessing housing conditions.

- It will replace the Fitness Standard (s604 Housing Act 1985 (as amended))
- Will concentrate on health and safety in the home.
- Hazards will be identified and classified as either a Category 1 or a Category 2 hazard.
- The Council must take enforcement action to deal with Category 1 hazards and may take action to deal with Category 2 hazards.
- Private Sector Housing Officers will be looking for the following hazards in the home:

<p><u>A Physiological Requirements</u></p> <ul style="list-style-type: none"> • Damp and mould growth • Excess cold • Excess heat • Asbestos (and man-made fibres) • Biocides • Carbon monoxide etc • Lead • Radiation • Uncombusted fuel gas • Volatile Organic Compounds 	<p><u>B Psychological Requirements</u></p> <ul style="list-style-type: none"> • Crowding and space • Entry by intruders • Lighting • Noise
<p><u>C Protection Against Infection</u></p> <ul style="list-style-type: none"> • Domestic hygiene, pests and refuse • Food Safety • Personal hygiene, sanitation and drainage • Water supply 	<p><u>D Protection against Accidents</u></p> <ul style="list-style-type: none"> • Falls associated with baths • Falls on the level • Falls associated with stairs and steps • Falls between levels • Electrical hazards • Fire • Hot surfaces and materials • Collision and entrapment • Explosions • Ergonomics • Structural collapse and failing elements

- New types of enforcement action and notices will be introduced. These include:
 - ◆ Serve an Improvement Notice – requires works to remove the hazard.
 - ◆ Make a Prohibition Order – prohibits use of residential dwellings or part of a residential dwelling.
 - ◆ Serve a Hazard Awareness Notice – advises of hazard and recommends remedial action.

- ◆ Take Emergency Remedial Action – where there is imminent danger, the Council can carry out emergency works.
 - ◆ Make an Emergency Prohibition Order – where there is imminent danger, Council can prohibit use of property immediately.
 - ◆ Make a Demolition Order – requires property to be demolished
 - ◆ Declare a Clearance Area – designated areas will be demolished and redeveloped.
- The owner of the property can appeal to a Residential Property Tribunal concerning each of the types of action.

□ **Definition of a House in Multiple Occupation**

- A building or part of a building is an HMO if it meets one of the following tests:

The Standard test

Any building in which two or more families/individuals share basic amenities.

The Self-contained flat test

Any flat in which two or more families/individuals share basic amenities.

The Converted building test

Any converted building which comprises of one or more units of accommodation that are not self-contained.

Certain converted blocks of flats

Any converted building which comprises of self-contained flats that does not meet the 1991 Building Regulation Standards and more than one third of the flats are occupied on short tenancies.

□ **Licensing of Houses in Multiple Occupation (HMOs)**

- All HMOs of 3 stories and above and with 5 or more people in residence, who do not form a single household, will be required to have a licence.
- Each licence will include a number of conditions that must be met.
- Each licence is granted for a maximum of 5 years.
- A licence can only be granted if the person proposing to hold the licence is appropriate to do so. There must be adequate management arrangements in place.
- If a landlord or owner fails to apply for a licence for an HMO that should have one, then the Residential Property Tribunal may order the landlord/owner to pay back the rent that was received during that period.
- If you are already part of the HMO Registration scheme in Cliftonville, it is likely that your registration will transfer to a licence when the legislation comes into force.
- The Council may also be able to declare that other types of HMOs will need to have a licence. This is called additional licensing.

Selective Licensing

- This part provides the Council with the option to declare a selective licensing area. This can only be declared where an area has problems of low housing demand or with anti-social behaviour. This will include all types of privately rented residential property, not just HMOs.

Interim and Final Management Orders

- These are used with regards to HMOs that must be licensed.
- If for any reason the Council is unable to issue a licence for a property and it continues to function as an HMO, the Council must serve an Interim Management Order.
- These are in force for up to 12 months while the reason for the licence being refused is sorted out.
- If the reason can not be dealt with and a licence still can not be issued after 12 months, then a Final Management Order must be served which will last for up to 5 years.
- The service of a management order means that the Council will take on all responsibility for the HMO. This includes collecting the rents and carrying out any repairs that are required. The owner retains ownership but is unable to step in to deal with any management issues.

Empty Dwelling Management Orders

- These are similar to Interim and Final management orders, but they only relate to empty properties.

Home Information Packs

- These will need to be provided at the beginning of the home/property buying/selling process.
- The pack will be expected to include key information about the property, including: terms of sale, evidence of title, any guarantees etc, planning approvals, condition report, and any other such information.

Further Information

The full text of the Act can be found on the HMSO website.
<http://www.legislation.hmso.gov.uk/acts/acts20040034.htm>

Guidance can be found on the ODPM website.
<http://www.odpm.gov.uk>

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