



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 5

#### LICENSING OF HOUSES IN MULTIPLE OCCUPATION

##### *Terms of HMO licence*

#### **133 Conditions**

- (1) An HMO licence may include such conditions as the local authority thinks fit.
- (2) The Scottish Ministers may by order require local authorities to include in HMO licences of such description as may be specified in the order such conditions as may be so specified.
- (3) A condition included in an HMO licence may specify a date from which that condition is to have effect (and section 134(1) or, as the case may be, 138(8) is of no effect in so far as it purports to bring any condition which specifies such a date into effect before that date).
- (4) Where an HMO licence includes, or is varied to include, a condition which requires work to be carried out in any living accommodation, the condition must also specify the date by which that work must be completed.
- (5) No date may be specified for the purposes of subsection (3) or (4) which would—
  - (a) cause a condition of an HMO licence to have effect, or
  - (b) require the work required by such a condition to be completed,before the date by which the local authority reasonably considers that the licence holder can secure compliance with the condition or, as the case may be, complete the work.

#### **Commencement Information**

**II** [S. 133](#) in force at 31.8.2011 by [S.S.I. 2010/159](#), [art. 3](#)

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*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Cross Heading: Terms of HMO licence. (See end of Document for details)*

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### 134 Duration of HMO licence

- (1) An HMO licence—
- (a) has effect from, and
  - (b) expires 3 years (or such shorter period of not less than 6 months as may be specified in the licence) after,
- the latest of the dates set out in subsection (2).
- (2) Those dates are—
- (a) the date on which notice of the decision to grant it is served on the licence holder under section 158,
  - (b) where the local authority was required to consider a valid written representation, or decided to consider a late written representation, about the application for the HMO licence—
    - (i) the last date on which the decision to grant the HMO licence may be appealed to the sheriff by the respondent, or
    - (ii) where such an appeal is made, the date on which it is abandoned or finally determined other than by quashing the decision to grant the licence, and
  - (c) any later date as may be specified in the HMO licence.
- (3) Subsection (1) does not apply to an HMO licence granted in pursuance of paragraph 9(6) of schedule 4.
- (4) An HMO licence which is so granted—
- (a) has effect from, and
  - (b) expires one year after,
- the date by which the local authority was required by sub-paragraph (1) of that paragraph to determine the application for that licence.
- (5) Sections 135 to 137 set out circumstances in which an HMO licence is to continue to have effect until a later date or, as the case may be, to expire early.

#### Commencement Information

**I2** S. 134 in force at 31.8.2011 by S.S.I. 2010/159, art. 3

### 135 Application for new HMO licence: effect on existing HMO licence

- (1) Where—
- (a) an HMO licence has been granted (an “existing HMO licence”), and
  - (b) an application for a new HMO licence is made in relation to the living accommodation concerned before the existing HMO licence has expired,
- the existing HMO licence expires on the date set out in subsection (2).
- (2) That date is—
- (a) where the new HMO licence is granted, the date from which the new HMO licence has effect, <sup>F1</sup>...
  - [<sup>F2</sup>(aa) where the local authority refuses to consider the application for the new HMO licence—

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- (i) the date on which the existing HMO licence would expire had an application for a new HMO licence not been made, or
  - (ii) such later date as the local authority considers reasonable in the circumstances, and]
- (b) where the local authority refuses to grant the new HMO licence, the latest of the following dates—
- (i) the last date on which the decision to refuse to grant the new HMO licence may be appealed to the sheriff,
  - (ii) where such an appeal is made, the date on which it is abandoned or finally determined other than by quashing the decision to refuse to grant the new HMO licence, and
  - (iii) the date on which the existing HMO licence would expire had an application for a new HMO licence not been made.
- [<sup>F3</sup>(3) The local authority must serve notice of a decision under subsection (2)(aa)(ii) to extend (or further extend) the duration of an existing HMO licence on—
- (a) the licence holder,
  - (b) the enforcing authority, and
  - (c) the chief constable.]

#### Textual Amendments

- F1** Word in s. 135(2)(a) repealed (31.1.2012) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 13(5)(a)(i)**, 41(3); S.S.I. 2012/2, art. 2, Sch.
- F2** S. 135(2)(aa) inserted (31.1.2012) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 13(5)(a)(ii)**, 41(3); S.S.I. 2012/2, art. 2, Sch.
- F3** S. 135(3) inserted (31.1.2012) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 13(5)(b)**, 41(3); S.S.I. 2012/2, art. 2, Sch.

#### Commencement Information

- I3** S. 135 in force at 31.8.2011 by [S.S.I. 2010/159](#), **art. 3**

### 136 Change of ownership: effect on HMO licence

- (1) Subsection (2) applies where—
- (a) an HMO licence has effect on the date on which ownership of the living accommodation concerned is transferred by way of sale or otherwise from the licence holder to another person (the “new owner”), and
  - (b) the new owner is entered in the register maintained by the local authority under section 82(1) of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) (the “register of landlords”).
- (2) Where this subsection applies, the HMO licence—
- (a) is to be treated as having been granted to the new owner, but
  - (b) subject to sections 135 and 137, expires one month after the date on which ownership of the living accommodation is transferred.
- (3) Where the condition in subsection (1)(a) is satisfied but the new owner is not entered in the register of landlords, the HMO licence expires on the date on which ownership of the living accommodation is transferred.

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**Changes to legislation:** There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Cross Heading: Terms of HMO licence. (See end of Document for details)

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**Commencement Information**

**I4** [S. 136](#) in force at 31.8.2011 by [S.S.I. 2010/159](#), [art. 3](#)

**137 Death of licence holder: effect on HMO licence**

- (1) Where a sole licence holder dies, the HMO licence—
- (a) is to be treated as having been granted to the licence holder's executor, but
  - (b) expires 3 months after the date of the death.
- (2) The local authority may, on the application of a licence holder's executor, extend the period mentioned in subsection (1)(b) if it is satisfied that it is reasonable to do so for the purposes of winding up the licence holder's estate.

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**Commencement Information**

**I5** [S. 137](#) in force at 31.8.2011 by [S.S.I. 2010/159](#), [art. 3](#)

**Changes to legislation:**

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