

Housing Act 2004 What Is A House In Multiple Occupation (HMO)?

A building or part of a building is an HMO if it meets the conditions set out in any of the four tests below (some of the expressions are explained in the additional information section at the end of this document):

1. **Standard Test For An HMO (With No Self Containment) s254(2)**

A premises is an HMO if all the following conditions are met:

- One or more units of living accommodation are not self contained
- It is not occupied as a single household (additional info 3) (section 258 and regs2006/373*)
- It is the occupants main or only residence (see additional info 4) (section 259 and regs2006/373*)
- Occupation is the sole use of the accommodation (see additional info 2)
- Rent is paid by at least one person
- The households share or lack basic amenities (see additional info 1)

Examples of a standard HMO:

a shared house lived in by people from more than one family who share or lack amenities;
A house in bedsits lived in by people who belong to more than one family and who share or lack one or more facilities

2. **Self Contained Flat Test S254(3)**

A self contained flat is an HMO if all of the conditions below are met:

- It consists of a self contained flat (section 254(8)) which is defined as a separate premises forming part of a building which contains a w.c., personal washing facility and cooking facilities for the exclusive use of the occupant
- It is not occupied as a single household (additional info 3) (section 258 and regs2006/373*)
- It is the occupants main or only residence (see additional info 4) (section 259 and regs2006/373*)
- Occupation is the sole use of the accommodation (see additional info 2)
- Rent is paid by at least one person
- The households share or lack basic amenities (see additional info 1)

Example of a self contained flat classed as an HMO:

An individual flat lived in by people who belong to more than one family and who share one or more facilities e.g. w.c., kitchen or shower/bath

3. **Converted Building Test S254(4)**

For a converted building to be an HMO all the conditions below must be met:

- It is a converted building (section 254(8)) which is defined as a building or part of a building consisting of living accommodation in which one or more units have been created since the building was constructed
- One or more units of living accommodation are not self contained
- It is not occupied as a single household (see additional info 3) (section 258 and regs2006/373*)
- It is the occupants main or only residence (see additional info 4) (section 259 and regs2006/373*)
- Occupation is the sole use of the accommodation (see additional info 2)
- Rent is paid by at least one person

Example of a converted building classed as an HMO:

A building partly converted into self contained flats but not all units of accommodation are wholly behind their own front door.

4. **Converted Blocks Of Flats S257** (*A purpose built block of flats is not an HMO*).

A converted block of flats is an HMO if the building has been converted into and consists solely of self-contained flats and

1. the block fails to comply with:
 - a. for blocks completed before 1.6.92, the Building Regs 1991 and the works were not exempt (see below)
 - b. for blocks completed after 1.6.92 the Building Regs at the time of construction

and
2. Less than 2/3rds of the flats are owner occupied

Building Regulations 1991 Exemptions

- Buildings controlled under other legislation e.g. Explosives Act 1875
- Buildings not frequented by people
- Greenhouses and agricultural buildings
- Temporary buildings (less than 28 days)
- Ancillary buildings (used in connection with disposal of buildings)

* The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions)(England) Regulations 2006.

Additional Definitions And Information

1. Basic Amenities.

These are a kitchen, WC and personal washing facilities (bath or shower and wash hand basin).

2. Sole Use Condition

If an HMO meets all criteria of the tests except that residential use is not the sole use of a property, the Council can declare the premises an HMO by notice, if occupation as an HMO is a significant part of the use of the property e.g. part of a guest house or hotel

3. A single household is defined as:

- members of the same family i.e. parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin,
- people married or living together (including single sex relationships),
- a couple living with a someone related to one member of that couple and
- a household includes foster children or domestic employees (nannies, maids etc).
- a person receiving care and their carer

4. Main Residence includes:

- Students in full time education
- Refuges run by voluntary organisations for persons suffering from physical violence or mental abuse
- Migrant and seasonal workers living away from home
- Asylum seekers

Certain premises are not HMOs for licensing purposes (*schedule 14*)

1. Buildings controlled or managed by:

- A local housing authority
- RSL's (Housing Associations)
- A Police authority
- Metropolitan Police Authority
- A fire and rescue authority
- A health service body

2. HMOs regulated by other legislation e.g. children and care homes, boarding schools, prisons, bail and probation hostels etc.

3. Buildings occupied by students where the manager is the educational establishment

4. Buildings occupied by religious communities for prayer, contemplation, education or the relief of suffering (NB This does not apply to a converted block of flats to which s257 applies)

5. Owner occupied buildings where one or more persons who have (whole or part) either the freehold estate or a lease of more than 21 years and their household, along with no more than 2 other persons (often referred to as lodgers)

6. Any building occupied only by two persons who form two households

For more information contact:

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