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The Housing (Scotland) Act 2006 Part 5, Licensing of Houses in Multiple Occupation Applicant Guidance Notes

Before lodging your application for a licence for a House in Multiple Occupation (HMO) please ensure that you have read these guidance notes and Guidance on Standards for Licensing which gives further detail on the requirements.

1. You should note that a licence for a House in Multiple Occupation is required if three [3] or more unrelated adults live and share either cooking, toilet or personal washing facilities. The definition includes hostels, bedsits, student residence and shared flats. The premises should be the sole or main residence of those people.
2. The application must be made by an owner or their appointed agent (see section 3 below). If the applicant (HMO owner) is a natural person, any maiden or previous name and place and date of birth must be provided the whole of question 4 must be completed, and question 5 should be ignored
If the application is being made by one owner on behalf of joint owners then details must be provided for each joint owner. You may be requested to provide title deeds.
If the applicant is a natural person and is also carrying out the day to day management of the HMO then they complete sections 4 then move on to Section 8.
3. Any agent appointed to act on behalf of the owner must also provide their details – section 6.2.
4. If the applicant is a business, company or trust please provide the head/registered office address and details of all partners, company directors or trustees the whole of section 5 must be completed and section 4 should be ignored..
The Council is required to copy your application to the police who require this information to carry out appropriate vetting checks.
5. The Council may require you to provide proof of ownership of the premises stated on the application form.
6. When you have completed the form please send to Environmental Health at the address given above along with the appropriate application fee. Licence fees increase on 1st of April each year so please see list of current licence fees or contact Environmental Health on 01595 745250 or email ehadmin@shetland.gov.uk

NB: These fees are payable when the application is lodged and are non-refundable.

7. A separate application requires to be submitted in respect of each residence occupied as an HMO.
8. The enclosed Public Notice requires to be completed and displayed at or near the premises where it can be easily read by the passing public in the street, for a continuous period of 21 days, starting on the day the application is lodged with the Council.

NB: Under Schedule 4, paragraph 3 of the Housing (Scotland) Act 2006, where Applicants believe that compliance with this requirement is likely to jeopardise the safety or welfare of any persons, or the security of any premises, they may apply to their local authority to be exempt from this requirement.

9. The enclosed Certificate of Compliance requires to be completed and returned to Environmental Health only after the 21 day notice period for display of the Public Notice is over.
10. An application for licence in respect of an HMO should be accompanied by copies of plans of the premises. Ideally these plans should include a floor plan of each floor to a scale of 1: 50 with elevations to a scale of 1:100 and include a section through the building (including stairs) where the building is more than one storey. The plans should be annotated to include all appropriate structural detail required to assess the suitability of the building. A site plan (including boundaries) to a scale of 1:500 should also be provided. Whilst every effort should be made to submit plans to the above requirement should such plans not be available then hand drawn line plans will be acceptable providing that they are reasonably to scale or adequately dimensioned.
11. Whilst processing the application we will consult with the following: - Building Standards, Development Management (planning), Environmental Health, Trading Standards, the Police and the Scottish Fire and Rescue Service.
12. Your premises will be inspected by some of the Services referred to above. However, the Services involved will try to arrange to co-ordinate their visits to minimise inconvenience.
13. Depending on the occupancy of your premises planning consent may be required for the operation of the same as an HMO. You are asked to contact your local planning office prior to submission of an application for licence for an HMO to ascertain whether this is the case. Whilst the absence of planning consent will not prevent a licence from being issued should you require planning consent then both should be in place to enable the premises to operate. Please note that a change of use to multiple occupancy involving more than five residents who are not members of the same family will require planning permission. Where required the property should also have a relevant Building Warrant and Completion Certificate.
14. For all applications **copies** of (a) the tenancy or occupancy agreement see 'Guidance on Standards for Licensing of HMO's' Tenancy Management section, (b) relevant insurance cover (property and public liability) (c) an Electrical Certificate & PAT test (if applicable) (d) a Gas and Carbon Monoxide Certificate (if applicable, Fire Safety Risk Assessment, Heating Safety Certification (if applicable), EPC certificate and Legionella risk assessment should accompany the application. *Also check the advice below and make sure the property complies with the general requirements for the repairing standard and tolerable standards:*
http://www.shetland.gov.uk/environmental_health/documents/PrivateLandlordChecklist.pdf

You may be asked to provide copies of further documentation to ensure compliance with the repairing standard, should concerns be raised during inspection.

15. Once all the consultations have been carried out, you will be told of the nature of these enquiries. The results of them may be taken into account in coming to a decision on your application. If any objections against your application are received, they will be reported to the Shetland Islands Council Licensing Committee and you will be given an opportunity to be heard by the Committee before a decision is made on your application.
16. The Council must reach a decision on your application within twelve months. However, if no objections are received, your application will normally be dealt with and a licence issued as soon as reasonably practicable after the conclusion of the consultation process. You may not operate as a House in Multiple Occupation until you have been issued with a licence.
17. The Council may impose such conditions on the grant of a licence as they consider reasonable and if a licence is granted, you will be advised of the conditions, which must be observed at all times. You are entitled to seek variation of any of these conditions or such other conditions imposed by the Council once a licence has been granted.
18. The Council may refuse an application:-
 - (i) if they consider that the applicant is not a fit and proper person to hold a licence
 - (ii) where the premises are not considered suitable for the proposed activity
 - (iii) for any other good reason.
19. Where an application is refused, the applicant may appeal to the Sheriff and you may care to seek the advice of a Solicitor.

Please note that:

- 1) The fees and fines referred to above are correct at 1 April 2023, and will be subject to subsequent change.
- 2) These notes are for guidance only and are not a complete statement of the procedures relating to applications for licences under The Housing (Scotland) Act Part 5, Licensing of Houses in Multiple Occupation

NOTE: The maximum fine for operating an HMO without a licence (for the HMO owner or agent) is currently £50,000. In addition, the court may disqualify the owner from holding a licence for up to 5 years, and may disqualify an agent from acting for a licence holder for up to 5 years. Shetland Islands Council may also impose a Rent Suspension Order so that no rent is payable by the occupiers of the HMO. It is an offence to operate an HMO without a licence even where an application has been submitted but not yet granted. An exemption to this rule is where a currently licensed HMO is sold and the new owner submits a competent licence application within one month of the sale date.