

Houses in Multiple Occupation Licensing in Scotland

**Consultation on Adding New Categories
to the Definition of a House in Multiple
Occupation**

April 2019



Scottish Government
Riaghaltas na h-Alba
gov.scot

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MINISTERIAL FOREWORD



The Scottish Government's vision is for the people of Scotland to be able to live in good quality homes, that have high management standards and which are fit for the future.

With around 770,000 people now living in privately rented homes, we know that the sector plays a vital role in helping to meet housing need in Scotland. Tenants should be able to rely on their landlord to provide them with a home that meets all of the standards set out in legislation, whilst providing a professional service.

To ensure standards continue to rise, the Scottish Government is determined to support the development of a more targeted and effective regulatory framework.

Houses in Multiple Occupation (HMO) licensing plays a crucial role within that regulatory framework. Such properties provide an important supply of housing, particularly for some groups of people such as students, contract and transient workers and those who require support in a homely setting.

The purpose of HMO licensing is to ensure that accommodation offered within a shared property is safe, of good quality and is well managed. Landlords of HMO properties must have a license from the local council, ensuring that the property is managed properly and meets certain safety standards.

This consultation seeks your views on adding new categories to the definition of an HMO. The aim is to address potential health and safety concerns in relation to the accommodation that contract and transient workers live in when they are working away from their home.

We know that many people are required to work away from home, some for only a short time, others on a long term basis. The private rented sector is recognised as providing a good housing option for those requiring such flexibility and we know that many contract and transient workers stay within HMO properties, often sharing the accommodation with colleagues in an arrangement made between their employer and a private landlord.

However, we are also aware that many contract and transient workers arrange their own accommodation when working away from home and will often enter into long term arrangements with holiday accommodation providers, hostel owners or Bed and Breakfast owners. Some employers will also actively seek accommodation such as this, in order to avoid the need for finding a property with an HMO license in place.

Often, these workers will use the accommodation in a way that differs from a normal tourist – perhaps by agreeing with the owner that they are able to access kitchen facilities in order to make their own evening meal, or by changing the contents of a room to include cooking facilities.

This type of accommodation is not subject to the same safety requirements as HMOs, so the Scottish Government considers that there are clear health and safety concerns because the property is being used in a different way than normal tourist accommodation.

I believe that contract and transient workers – who often have no choice as to where they stay when they are required to work away from their home - should be afforded the same rights as those who live in shared, rented property as their only or main residence. I look forward to hearing your views on the proposals contained within this consultation.

A handwritten signature in black ink, appearing to read 'Kevin Stewart', with a stylized flourish extending from the end.

Kevin Stewart MSP

Minister for Local Government, Housing and Planning

Background

The private rented sector (PRS), has grown substantially in the last 10 years and accounts for 15% of all households in Scotland, with over 770,000 people now calling the sector home.

Improving the management and condition of privately rented properties has been a key focus for this Government and in 2013, we published the private rented housing strategy '[A Place to Stay, A Place to Call Home](#)' with the aim of improving management standards and quality of service for tenants and prospective tenants, as well as enabling growth and investment in the sector.

To support work towards an improved sector, various legislative requirements have been introduced over recent years, including:

- **Private Landlord Registration:** private landlords must register themselves and the properties they let with the relevant local authority. The local authority must be satisfied that the landlord is a fit and proper person before they can be entered on the register;
- **Repairing Standard:** Landlords must make sure the property they rent reaches a standard level of repair called the 'repairing standard'. This includes ensuring the property is wind and watertight; and that the property has a satisfactory way of detecting fires and for giving warning in the event of a fire or suspected fire;
- **Tenancy Deposits:** Landlords who receive a tenancy deposit are required to pay the deposit into an approved tenancy deposit scheme and to provide the tenant with key information about the tenancy and deposit;
- **Private Residential Tenancy:** The Private Housing (Tenancies) (Scotland) Act 2016 (the Act) is the most significant change in private renting in Scotland for almost 30 years. It commenced on 1 December 2017 and introduced the new Private Residential Tenancy (PRT), which replaces the Short Assured and Assured Tenancies. The underlying principle of the new PRT is that when a landlord rents out their property to a tenant it becomes the tenant's home, over which they must have security. Its purpose is to improve security, stability and predictability for tenants, balanced with safeguards for landlords, lenders and investors;
- **Regulation of letting agents:** Regulation of letting agents commenced on the 31 January 2018 and includes compulsory registration; a statutory Code of Practice with a means of redress; and powers for effective enforcement. These measures will give landlords and tenants confidence in the standard of service they should expect; help increase the overall standards of service and professionalism within the letting industry; and provide landlords and tenants with an effective way to challenge poor practice.

Houses in Multiple Occupation

Introduced in Scotland from October 2000, the licensing of houses in multiple occupation (HMO) is a crucial element within the private rented sector regulatory framework, helping to improve both physical accommodation standards and the management of tenancy issues. HMOs provide an important supply of housing, particularly for groups of people such as students, transient workers, and those who need extra support in their daily lives.

Mandatory HMO licensing applies to houses occupied by three or more persons, from three or more families, as their only or main residence.

All HMOs must meet physical standards set by the licensing local authority under [Part 5](#) of the [Housing \(Scotland\) Act 2006](#). Mandatory licensing applies to houses or flats occupied by three or more unrelated people, who share bathroom or kitchen facilities. The owner of an HMO must have a licence from the local authority where the property is situated. Licensing helps ensure that accommodation is safe, well managed and of good quality. HMOs are also covered by [fire safety legislation](#).

Before granting a licence, the local authority must be satisfied that:

- the owner and any manager of the property is 'fit and proper' to hold a licence;
- the property meets required physical standards; and
- the property is suitable for use as an HMO (or could be made so by including conditions on the licence).

The local authority sets the standards required and also sets the fees charged for a licence application. Scottish Ministers have issued [guidance to local authorities on the licensing of Houses in Multiple Occupation](#).

It is a criminal offence to operate an HMO without a licence and the maximum fine for doing so is £50,000. Local authorities have a range of other enforcement options, including the power to vary the terms of a licence or revoke it. An HMO licence can also be revoked if the owner or agent, or the living accommodation, is no longer suitable.

Consultation on adding new categories to the definition of a house in multiple occupation

This consultation is comprised of 11 questions and set out in two parts:

- **Part one** provides more detail on concerns that have been brought to the Scottish Government's attention in relation to the health and safety of contract and transient workers when living in certain accommodation away from home. It seeks your views on the proposed legislative changes to the HMO licensing regime to address these concerns.
- **Part two** seeks your views on the impact of the proposals on island communities, equality groups and businesses.

Responses to the consultation will be used to inform and develop the final policy and impact assessments that will be prepared in support of any Order to expand the definition of HMO.

Information on how to respond to the consultation is on page 17. The questions are set out in full in Annex B.

Part One: Concerns regarding the safety of contract and transient workers accommodation when staying away from home

Background

The Scottish HMO Network Group, brings together officials from all 32 local authorities. The Group approached the Scottish Government asking for the current definition of 'only or main residence' within HMO licensing to be clarified in order to capture contract and transient workers.

It was highlighted that these workers are often found staying in a range of accommodation such as B&Bs and holiday lets. The group consider that these circumstances are equivalent to houses being used as HMOs and therefore they should be licensed in a similar way to ensure the safety of the occupants.

As holiday lets and B&B accommodation are not subject to the same safety and management standards as HMOs, local authorities highlighted clear health and safety concerns where multiple people are living within shared accommodation.

The HMO Network Group highlighted particular issues in relation to section 125(1)(a) of the Housing (Scotland) Act 2006 and, in particular, part 4(a) which states that "a person is to be treated as occupying living accommodation only if it is that persons only or main residence".

Where local authorities highlight that workers are living in a way that would mean the property should be subject to HMO licensing, they often find that many employers and/or accommodation owners challenge this by claiming that the accommodation is not the workers' 'only or main residence' in order to avoid the additional costs of HMO licensing.

The policy intention of the changes that are proposed in this consultation paper focus on ensuring that contract and transient workers – who often have no choice where they stay when working away from home – are afforded the same health and safety rights as those who live in a shared rented property as their only or main residence.

An example of such a situation is where major infrastructure works take place in a locality – such as the recent Aberdeen City Bypass or Queensferry Crossing – resulting in an influx of hundreds of construction workers to an area, many of whom are working away from home and require living accommodation.

Some workers will stay in the locality of the works on a working week basis, returning to their own homes at the weekend. Others will stay in the locality of the works for weeks or months at a time, only returning to their main residence when their contracts come to an end.

Local authorities report that many workers (or their employers) will rent holiday accommodation on a long term basis, or come to an agreement with an owner, ensuring that multiple workers have access to living accommodation in the locality of the works. In many instances they have access to special rates and arrangements are made so that workers can use facilities such as kitchens, or other arrangements for cooking, that would not be provided for tourists.

Question 1: Should holiday lets, hostels or B&Bs be licensed as HMOs, when contract and transient workers are residing in them and special arrangements have been made for the workers? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Proposals for a new test for defining HMO accommodation

Under the Housing (Scotland) Act 2006 (“the 2006 Act”), a house has to be the only or main residence of occupants for HMO licensing to apply when the appropriate occupancy level has been reached. A house that would otherwise be a licensable HMO is not one if a sufficient number of residents have a main residence elsewhere. This includes people based outside Scotland who are working here for an extended period.

Section 125(1)(a) of the Housing (Scotland) Act 2006 states that “HMO means any living accommodation occupied by 3 or more persons who are not all members of the same family or of one or other of two families, which is occupied by those three or more persons as their only or main residence”.

The local authority concerns are that some employers and accommodation owners are purposefully avoiding HMO licensing because they claim the occupants are living in the premises for only a short time and have a principal residence elsewhere. Section 125(1)(b) of the 2006 Act provides the power for Scottish Ministers to add, by order, new categories to the definition of houses in multiple occupation. Any additional descriptions of living accommodation made under the power in paragraph (b) would not include the requirement under section 125(1)(a), to be occupied as an only or main residence.

The policy aim of the proposal is to allow local authorities to consider the manner in which a property is being used without taking into account whether or not the occupant has a main residence elsewhere.

To do this, the Order would describe particular types of properties and how those properties are being occupied, without needing to take into account the only or main residence test. This would address the concerns that contract or transient workers are living in a range of differing accommodation which may be substandard, overcrowded and unsafe, or where unscrupulous landlords may be frequently moving workers - particularly vulnerable migrant workers - between different premises, describing each as a ‘short term let’.

Furthermore, it would address situations where accommodation owners are actively marketing their properties to contract workers, on a long term basis that is different to normal tourist use, but are avoiding the need to obtain an HMO license by claiming it is not the workers’ only or main residence.

Question 2: Do you agree with the policy approach to change the focus from the only or main residence test to instead focus on the type of accommodation and its manner of occupation for contract and transient workers? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

The Houses in Multiple Occupation (Scotland) (Order) 2019

A draft Houses in Multiple Occupation (Scotland) Order 2019 can be found within Annex A of this consultation. The following section provides further detail on the policy intention behind each article within the draft Order and seeks your views.

Types of accommodation to be added to the definition of an HMO

Article 2(1) of the draft Order sets out the types of living accommodation that are to be included within the definition of an HMO. They are:

- a. bed and breakfast accommodation, occupied in the manner set out in paragraph (2)(a) of the draft order;
- b. hotel accommodation, occupied in the manner set out in paragraph (2)(b) of the draft order;
- c. a backpackers' hostel, occupied in the manner set out in paragraph (2)(c) of the draft order;
- d. living accommodation in the same premises where the worker is employed;
- e. a flat or house;
- f. a serviced apartment;
- g. self-catering accommodation also used for tourism lets;
- h. lodgings consisting of a rented room or rooms in another person's house;
- i. a non-traditional or temporary structure designed or adapted for living accommodation, which is not:
 - a caravan (as defined by section 29 of the Caravan Sites and Control of Development Act 1960); or
 - a tent, van, shed or similar structure, used for human habitation.

Where any of these types of accommodation is occupied by 3 or more unrelated workers - in a manner that is set out in article (2) of the draft order - then the owner or landlord would be required to apply to their local authority for an HMO license.

Whilst a wide range of accommodation types is set out in the draft Order, the policy intention is that such properties would only fall within the scope of HMO licensing when 3 or more a specific type of occupant (i.e. a contract or transient worker) is residing in the property in a particular way.

This enables Ministers to extend the benefits of HMO licensing – which can set out requirements for physical conditions, safety and tenancy management – to types of multi-occupancy property that fall outside the current definition of a licensable HMO, but which are being used in a way that raises health and safety concerns.

An example of this could be where a B&B owner has agreed with 3 contract workers that they can access the kitchen facilities in order to make their own breakfast. This is due to the workers being required to leave earlier than when breakfast is normally offered to tourists. Furthermore, the workers are able to make their own evening meal in the accommodations kitchen. This is a manner of occupation that differs from the normal services offered to a person using the premises on a tourism basis.

Question 3: Do you agree with the types of living accommodation set out in article 2(1) of the draft Order? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Manners of occupation to be added to the definition of an HMO

Article 2(2) of the draft Order sets out the manners in which workers are occupying the property types set out in article 2(1). They are, where workers are:

- a. living in bed and breakfast accommodation where the property owner has made a physical and/or operational change to the premises or the nature of the business to accommodate workers in a manner which differs from the use of the premises by tourists;
- b. living in hotel accommodation where the property owner has made a physical and/or operational change to the premises or the nature of the business to accommodate workers in a manner which differs from the use of the premises by tourists;
- c. living in a backpackers' hostel where the property owner has made a physical and/or operational change to the premises or the nature of the business to accommodate workers in a manner which differs from the use of the premises by tourists;
- d. living in any type of accommodation mentioned in article 2(1)(d) to (i) while engaged in seasonal or agricultural work;
- e. living in any type of accommodation mentioned in article 2(1)(d) to (i) either:
 - before being transported offshore for employment; or
 - after being transported back from offshore;
- f. living in any type of accommodation mentioned in article 2(1) with other persons who occupy the living accommodation as an only or main residence where the number of workers and other persons together amounts to the 3 or more persons mentioned in section 125(1) of the 2006 Act.

As with article 2(1), the policy intention is to define that the way a property is being used by workers is central to determining whether it will come within the scope of HMO licensing.

For example, should 3 or more unrelated workers be residing in B&B accommodation but using it in the same manner as a tourist would – then HMO licensing would not apply. However, where the B&B bedrooms that those 3 workers are staying in, have been altered to provide them with cooking facilities, then HMO licensing would apply.

Similarly, should a person renting a holiday let contract with a company allowing them to use the holiday accommodation to house 3 or more unrelated staff, as they travel to and from offshore oil rigs, then an HMO license would be required. This

would also apply if a group of workers approached a holiday let owner directly to rent their property for such purposes.

Question 4: Do you agree with the policy approach outlined in article 2(2) of the draft Order? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Question 5: Do you agree with the manners of occupation set out in article 2(2) of the draft Order? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Question 6: Are there other manners of occupation that should be described in the Order? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Introducing a time pattern for manners of occupation

Article 2(3) of the draft Order introduces a time pattern for the manners of occupation. This sets out:

- occupation takes place for only part of a week; or
- that the three or more persons occupy the same living accommodation for a minimum period of one day in a 12 month period.

The policy intention behind the introduction of a time pattern for the manners of occupation is to reflect the transient nature of the workers. We know that numbers of workers living within the property types defined in the order will vary and will depend on a range of factors such as the length of their contract. This may result in a property owner accommodating 5 workers one week but the next week having none; or 4 workers living in a property for 4 days a week and then returning home.

This variation in occupant levels is not considered to be a valid reason for HMO licensing not to apply.

Question 7: Do you agree with the time pattern approach outlined in article 2(3) of the draft Order, whereby there does not have to permanently be 3 or more persons living in the accommodation? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Part Two: Impact Assessments

Islands (Scotland) Act 2018

The Islands (Scotland) Bill was passed by the Scottish Parliament in May 2018 and introduced measures to support and help meet the unique needs of Scotland's islands now and in the future. It seeks to help create the right environment for sustainable growth and empowered communities.

Provisions within section 13 of the Islands (Scotland) Act 2018 – which are not yet in force – set out that Scottish Ministers must carry out an Island Communities Impact Assessment (ICIA) when preparing legislation, including subordinate legislation. Whilst these provisions are not yet in force, Scottish Ministers have committed to act in the spirit of the legislation by carrying out ICIA's where appropriate.

As set out in this consultation, where owners of the accommodation types set out in the draft order have changed the manner of occupation in order to accommodate 3 or more contract workers, they will be required to apply for an HMO license. This may mean the owners of properties such as B&Bs or holiday lets will be required to comply with a range of conditions and safety standards that their properties may not currently reach.

Island communities will also have less choice with regards to accommodation for contract workers who are visiting, than would be available on the mainland for example. Therefore the proposed changes may be perceived as reducing the availability of accommodation for such workers and be viewed as having a detrimental effect on the islands' wider economy. However, it is important to note that this may mean that there is an increased health and safety risk in relation to the types of accommodation that contract workers reside in when visiting an island community.

We are aware of the different circumstances that exist on our island communities and we are keen to explore this further, therefore an Island Communities Impact Assessment will be prepared in support of any Order to lay new regulations.

Question 8: Are there any proposals in this consultation which impact on, or have implications for islands communities? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Equalities Impact Assessment

The Scottish Government does not think that the policies proposed in the consultation will have potentially negative impacts for equality groups. However, we welcome your thoughts on the impact of the proposals on particular groups of people in respect of their age, disability, gender reassignment, race, religion, sex or sexual orientation, being pregnant or on maternity leave and children's rights and wellbeing. Your views on the impact of these policies will be used to inform the final Equality Impact Assessment that will be prepared in support of any Order to lay new regulations.

Question 9: Are there any proposals in this consultation which impact on, or have implications for equality groups? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Business and Regulatory Impact Assessment

To help us determine the impact of the policies proposed in this consultation, we are interested to find out if these proposals would lead to increased costs and/or impact on resources for you or your business (if applicable).

Any comments received will be used to inform the final Business and Regulatory Impact Assessment which would be prepared in support of any Order to lay new regulations.

Question 10: Do any of the proposals in this consultation have financial, regulatory or resource implications for you and/or your business (if applicable)? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Question 11: Over the coming months, would you be willing to take part in a short interview to expand further on your comments to Question 10?

Yes No

Responding to this Consultation

We are inviting responses to this consultation by **8 July 2019**.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/private-rented-sector-policy/new-categories-to-the-definition-of-a-house/>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 8 July 2019.

If you are unable to respond online, please read the consultation paper and give us your views by completing the consultation answer form and the Respondent Information Form which can be found in Annex C. Completed responses can be submitted by email to HMOConsultation@gov.scot or by post to:

Houses in Multiple Occupation Consultation
Scottish Government, Victoria Quay
Private Rented Sector Team
Edinburgh
EH6 6QQ

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address on the previous page or at HMOConsultation@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Draft Order laid before the Scottish Parliament under section 191(4)(a) of the Housing (Scotland) Act 2006, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

HOUSING

The Houses in Multiple Occupation (Scotland) Order 2019

Laid before the Scottish Parliament 2019

Coming into force - - 2019

The Scottish Ministers make the following Order in exercise of the powers conferred by section 125(1)(b) of the Housing (Scotland) Act 2006(1) and all other powers enabling them to do so.

In accordance with section 125(1A) of that Act, they have consulted local authorities and such tenants (or tenants' representatives) and such landlords (or landlords' representatives) as they think fit.

In accordance with section 191(4)(a) of the Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) This order may be cited as the Houses in Multiple Occupation (Scotland) Order 2019 and comes into force on 24 May 2019.

(2) In this Order—

“the 2006 Act” means the Housing (Scotland) Act 2006,

“backpackers’ hostel” means low-cost, dormitory-style accommodation, used by tourists or travellers,

“serviced apartment” means a house, flat or an apartment forming part of a hotel in relation to which concierge or cleaning services are supplied;

“tourist” means a visitor to Scotland, a person spending their holiday in Scotland or a person travelling for pleasure within Scotland, and “tourism” shall be construed accordingly, and

“worker” means a person who is employed or self-employed either under a contract or on a seasonal basis, or other ad-hoc basis, whose employment, due to its location or any other reason, requires them to live in accommodation which is not their only or main residence.

Meaning of “house in multiple occupation”

2.—(1) The following types of living accommodation for workers are specified for the purposes of section 125(1)(b) of the 2006 Act:—

(1) 2006 asp 1.

- (a) bed and breakfast accommodation occupied in the manner described in paragraph (2)(a),
- (b) hotel accommodation occupied in the manner described in paragraph (2)(b),
- (c) a backpackers' hostel occupied in the manner described in paragraph (2)(c),
- (d) living accommodation in the same premises where the worker is employed;
- (e) a flat or house,
- (f) a serviced apartment;
- (g) self-catering accommodation also used for tourism lets;
- (h) lodgings consisting of a rented room or rooms in another person's house;
- (i) a non-traditional or temporary structure designed or adapted for living accommodation, which is not—
 - (i) a “caravan” as defined by section 29 of the Caravan Sites and Control of Development Act 1960, or
 - (ii) a tent, van, shed or similar structure, used for human habitation.

(2) The following manners of occupation by workers are specified for the purposes of section 125(1)(b) of the 2006 Act:—

- (a) living in bed and breakfast accommodation where the property owner has made a physical and/or operational change to the premises or the nature of the business to accommodate workers in a manner which differs from the use of the premises by tourists,
- (b) living in hotel accommodation where the property owner has made a physical and/or operational change to the premises or the nature of the business to accommodate workers in a manner which differs from the use of the premises by tourists,
- (c) living in a backpackers' hostel where the property owner has made a physical and/or operational change to the premises or the nature of the business to accommodate workers in a manner which differs from the use of the premises by tourists,
- (d) living in any type of accommodation mentioned in article 2(1)(d) to (i) while engaged in seasonal agricultural or other work,
- (e) living in any type of accommodation mentioned in article 2(1)(d) to (i) either—
 - (i) before being transported offshore for employment, or
 - (ii) after being transported back from offshore,
- (f) living in any type of accommodation mentioned in article 2(1) with other persons who occupy the living accommodation as an only or main residence where the number of workers and other persons together amounts to the 3 or more persons mentioned in section 125(1) of the 2006 Act.

(3) The manners of occupation mentioned in paragraph (2) are deemed to take place where—

- (a) occupation takes place for only part of a week, or
- (b) the 3 or more persons mentioned in section 125(1) of the 2006 Act occupy the same living accommodation for a minimum period of one day in a 12-month period.

Name

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date



CONSULTATION ON ADDING NEW CATEGORIES TO THE DEFINITION OF A HOUSE IN MULTIPLE OCCUPATION

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

List of consultation questions

Question 1: Should holiday lets, hostels or B&Bs be licensed as HMOs, when contract and transient workers are residing in these and special arrangements have been made for them? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Question 2: Do you agree with the policy approach to change the focus from the only or main residence test, to instead focus on the type of accommodation and its manner of occupation for contract and transient workers? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Question 3: Do you agree with the types of living accommodation set out in article 2(1) of the draft Order? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Question 4: Do you agree with the policy approach outlined in article 2(2) of the draft Order? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Question 5: Do you agree with the manners of occupation set out in article 2(2) of the draft Order? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Question 6: Are there other manners of occupation that should be described in the Order? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Question 7: Do you agree with the time pattern approach outlined in article 2(3) of the draft Order, whereby there does not have to permanently be 3 or more persons living in the accommodation? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Question 8: Are there any proposals in this consultation which impact on, or have implications for islands communities? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Question 9: Are there any proposals in this consultation which impact on, or have implications for equality groups? Please choose from the following options:

Yes No Unsure

Please tick only one box and explain your answer below:

Comments

Question 10: Do any of the proposals in this consultation have financial, regulatory or resource implications for you and/or your business (if applicable)? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Comments

Question 11: Over the coming months, would you be willing to take part in a short interview to expand further on your comments to Question 10?

Yes No



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