

## **HMO DEFINITION CHECKLIST**

### **1. Exemptions**

Properties which meet any of the tests described above cannot be considered to be houses in multiple occupation if:-

The building or part of a building is managed or controlled by:-

- A local housing authority
- A registered social landlord
- A police authority
- The Metropolitan Police Authority
- A Fire and Rescue Authority
- A Health Service Body

The building or part of a building is regulated by other Acts, including:-

- The Children Act 1989
- The Prison Act 1952
- Nationality, Immigration and Asylum Act 2002
- The Secure Training Centre Rules 1998
- The Prison Rules 1999
- The Young Offender Institute Rules 2000
- The Detention Centre Rules 2001
- The Criminal Justice and Court Services Act 2000 (Approved Premises) Regulations 2001
- The Care Homes Regulations 2001
- The Children's Homes Regulations 2001
- The Residential Family Centres Regulations 2002

The building or part of a building is occupied solely or principally by students and managed by the Educational Establishment.

The building or part of a building is occupied by religious communities whose principal occupation is Prayer, Contemplation, Education or the Relief of Suffering (this exemption does not apply to converted blocks of flats - Section 257).

The building or part of a building is occupied predominantly by owner-occupiers, including resident landlords where the owner-occupier (and members of his family) occupies the building/part of the building with no more than two other persons.

The building is occupied by only two persons who form two households.

## 2. Important Definitions

- (i) “Persons not forming a single household”
  - (a) A single household includes one which consists of all members of the same family, which includes married couples, couples living as husband and wife, same sex couples, a person who is a relative (and relative means ‘parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin, including half blood and step relationships).
  - (b) A single household includes one where a person lives in accommodation supplied by his employer or by a member of his employer’s family if the accommodation is included in his work contract, his employer or a member of his employer’s family occupies the building or the same part of the building, he does not pay any rent for the living accommodation and he is employed to carry out work of an exclusively domestic nature, such as au pair, nanny, nurse etc.
  - (c) A single household includes one which includes a carer approved under regulations.
  - (d) A single household includes foster families.
  
- (ii) “Persons treated as occupying premises as their only or main residence”
  - (a) A person is considered to be occupying a building if it is occupied by the person:
    - (i) as the person’s home for the purpose of higher education;
    - (ii) as a refuge from physical violence or mental abuse or threats of such from a husband/wife/partner;
    - (iii) migrant workers or seasonal workers whose occupation of the premises is linked to employment and provided by or on behalf of his/her employer;
    - (iv) an asylum seeker or his dependent who has been provided with accommodation under the Immigration and Asylum Act 1999 and that accommodation is provided by a private landlord on behalf of NASS.

- (iii)** Presumption that sole use condition or significant use condition is met:-
  - (a) It shall be presumed, unless the contrary is shown, that the sole use condition or significant use condition is met.
  
- (iv)** “Basic amenities” means:-
  - (a) a toilet
  - (b) personal washing facilities; or
  - (c) cooking facilities
  
- (v)** “Converted building” means:-
  - (a) A building or part of a building consisting of living accommodation in which one or more units of such accommodation have been created since the building or part was constructed.
  
- (vi)** “Self-contained flats” means:-
  - (a) A separate set of premises (whether or not on the same floor) which forms part of a building, either the whole or a material part of which lies above or below some other part of the building and in which all three basic amenities are available for the exclusive use of its occupants.