

Is my property an HMO?

Housing Act 2004
section and
schedule numbers

It will be an HMO if it is one of the following:

A shared house lived in by people who belong to more than one family* and who share one or more facilities**.

s254(2)
(The 'standard
test')

A house in bedsits lived in by people who belong to more than one family* and who share one or more facilities**.

s254(4)
(The 'converted
building test')

An individual flat lived in by people who belong to more than one family* and who share one or more facilities**.

s254(3)
(The 'self-
contained flat
test')

A building of self-contained flats that do not meet 1991 Building Regulation standards.

s257

Exemptions:

- If it is occupied by only two people.
- If it is occupied by the owner (and their family if any) and one or two lodgers.
- If it is occupied by a religious community.
- If the occupiers have their main residence elsewhere***.
- If no one in the property is required to pay rent.
- If the owner or manager is a public body.
- If the owner or manager is an educational institution.
- A building of self-contained flats if two thirds or more of the flats are owner-occupied.
- If the property is part of a guest house or hotel (unless an 'HMO Declaration' is made).

Sch 14, 7
Sch 14,
6(c)
Sch. 14, 5
s259
s254(2)(e)
Sch. 14, 2
s257(2)(b)
s254(2)(d)
(s255(1))

Some of these HMOs must have a licence – which ones?

An HMO must have a licence if **all** three of the following apply:

- (a) It is **an HMO** (see definition of HMO above) **and**
- (b) it is **three storeys or more** (includes basements) **and**
- (c) it is occupied by **five people or more**.

Regulations
made
under s55

Exemptions:

- If the whole property is in self-contained flats.
- If the basement is in commercial use and there are only two residential storeys above.

*Family – husband, wife, co-habitee, child, step-child, foster-child, grandchild, parent, step-parent, foster-parent, grandparent, brother, half-brother, sister, half-sister, aunt, uncle, niece, nephew, cousin.

s258

**Facilities – basic amenities: wc; wash hand basin, shower, bath; cooking facilities.

s254(8)

***Accommodation used by full-time students while they are studying is taken to be their main residence.

s259(2)(a)