

Report To: General Purposes Board **Date:** 9 November 2011
Report By: Head of Legal & Democratic Services **Report No:** LA/767/11
Contact Officer: Caroline Shaw **Contact No:** 01475 712115
Subject: Houses in Multiple Occupation: New Legislation

1.0 PURPOSE

- 1.1 The purpose of this report is to inform the Committee that the Houses in Multiple Occupation (HMO) licensing regime is no longer under the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000, as amended but is now under the new regime of Part 5 of the Housing (Scotland) Act 2006, as amended from 31 August 2011.

2.0 SUMMARY

- 2.1 Mandatory HMO licensing has operated under the Civic Government (Scotland) Act 1982 since 2000. Part 5 of the Housing (Scotland) Act 2006 brings HMO licensing into housing legislation. Both regimes are broadly similar, but some important differences have been introduced under Part 5, i.e. more punitive enforcement options are available; local authorities have to take account of the new statutory guidance issued by Scottish Ministers; amendments were made in the Private Rented Housing (Scotland) Act 2011, particularly in relation to the giving of reasons for decisions and increasing the penalty for operating an unlicensed HMO.
- 2.2 This report seeks Committee approval to grant Delegated Authority to the Head of Legal & Democratic Services to;
- grant HMO licences under Part 5 of the Housing (Scotland) Act 2006, as amended for a maximum period of 3 years where no objections have been received from Council Services or members of the public
 - vary HMO licences under Section 138 of the said Act
 - revoke HMO licences under Section 139 of the said Act
 - grant temporary exemption orders under Section 142 of the said Act
 - grant temporary exemption order (to improve safety and security) under Section 143 of the said Act
 - suspend the rent or other sums for occupation payable under any tenancy or occupancy arrangement under Section 144 of the said Act
 - serve a notice of decisions under Section 158 of the said Act
 - increase the fee charged for the granting of HMO licences under Section 161 of the said Act.
- 2.3 The Civic Government and the Part 5 regime are quite similar. The Part 5 regime does however provide local authorities with greater enforcement options against non compliant landlords, requires local authorities to take account of the guidance issued by the Scottish Ministers and includes amendments from the Private Rented Housing (Scotland) Act 2011 including increasing the penalty for operating an unlicensed HMO.
- 2.4 As a result of the new legislation the fees require to be increased and this will be determined through consultation with Environmental and Commercial Services and

Legal and Democratic Services. Under the new legislation there is no longer a 'renewal' application. All applications are deemed 'new' and will last for a maximum of 3 years unless otherwise stipulated.

3.0 RECOMMENDATIONS

3.1 It is recommended that Members note the change in legislation.

3.2 That the Committee grants Delegated Authority to the Head of Legal & Democratic Services to;

- grant HMO licences under Part 5 of the Housing (Scotland) Act 2006, as amended for a maximum period of 3 years where no objections have been received from Council Services or members of the public
- vary HMO licences under Section 138 of the said Act
- revoke HMO licences under Section 139 of the said Act
- grant temporary exemption orders under Section 142 of the said Act
- grant temporary exemption order (to improve safety and security) under Section 143 of the said Act
- suspend the rent or other sums for occupation payable under any tenancy or occupancy arrangement under Section 144 of the said Act
- serve a notice of decisions under Section 158 of the said Act
- increase the fees charged for the granting of HMO licences under Section 161 of the said Act.

3.3 Remit to the Head of Legal & Democratic Services to determine the new fees.

Caroline Shaw
Senior Paralegal
Legal & Democratic Services

4.0 BACKGROUND

- 4.1 The new legislation came into force on 31 August 2011.
- 4.2 Members will retain similar powers as under the Civic Government regime.
- 4.3 The delegated authority is sought to allow the Head of Legal and Democratic Services, without further consultation with Committee, to take immediate action under the Recommendation 3.2 as time is of the essence.

5.0 IMPLICATIONS

- 5.1 Financial Implications - None
- 5.2 Personnel: None
- 5.3 Legal: None additional to the terms of the report