

# SCOTTISH EXECUTIVE

## The Mandatory Licensing of Houses in Multiple Occupation

### BUILDING REGULATION NOTE Note No 7/2000

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# SCOTTISH EXECUTIVE

## The Mandatory Licensing of Houses in Multiple Occupation

Our ref: QTD 1/5  
2 October 2000

Dear Sir or Madam

Enclosed for your information is a copy of Building Regulation Note 7/2000.

This Note provides guidance and advice on the requirements of the Technical Standards with respect to the mandatory licensing of houses in multiple occupation and supplements the general guidance already issued by the Housing Division of the Development Department of the Scottish Executive.

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Yours faithfully

**J A CARTER**

Head of Building Control Policy Branch

# SCOTTISH EXECUTIVE

## The Mandatory Licensing of Houses in Multiple Occupation

### 1. INTRODUCTION

1.1 This note provides guidance and advice on the requirements of the Technical Standards for compliance with the Building Standards (Scotland) Regulations with respect to the mandatory licensing of houses in multiple occupation. This paper supplements the general guidance already issued, "*Guidance on the mandatory licensing of houses in multiple occupation*", by the Housing Division of the Development Department of the Scottish Executive.

1.2 The primary reason for the introduction of mandatory licensing of houses in multiple occupation is to increase the protection that is given to tenants in such establishments, by ensuring that the accommodation provided is safe and of good quality. The nature of houses in multiple occupation varies widely, but many of the most vulnerable members of society live in accommodation within this sector.

### 2. THE PROVISIONS OF THE ORDER

2.1 The Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000 requires any person operating a house in multiple occupation which falls within the criteria specified in the Order to apply to their local authority for a licence.

2.2 To be classified as a House in Multiple Occupation the accommodation must be the only or principal residence of a specified number of people who are not members of the same family or of one or other of two families. The specified number is initially six or more, and will reduce annually until it reaches three or more. Therefore :

- from 1 October 2000 it will be six or more,
- from 1 October 2001 it will be five or more,
- from 1 October 2002, it will be four or more, and
- from 1 October 2003 it will be three or more.

2.3 The definition of family members is broadly the same as in section 83 of the Housing (Scotland) Act 1987, except that it has been expanded to include same sex couples.

2.4 Licensing is the responsibility of the local authority and will involve both consideration of the suitability of the operator and an assessment of the condition of the premises. Such an assessment of the premises will probably involve an inspection or inspections. To assist in such inspections the guidance

includes a set of Benchmark Standards and many local authorities will choose to make these their standards for assessing houses in multiple occupation.

### 3. BENCHMARK STANDARDS

3.1 The Benchmark Standards have been developed for the assessment of houses in multiple occupation to provide reference points for local authorities when deciding if a particular property offers an acceptable level of accommodation. However an assessment may show that it is possible to achieve an equivalent level of accommodation or safety through different packages of measures and that this would be equally acceptable. The Benchmark Standards are presented as guidance for local authorities. They do not have the mandatory force of the Technical Standards, and there is no need, or provision, for any system of relaxations or appeals. The Benchmark Standards are included in the guidance document for local authorities, and are also attached as an appendix to this Building Regulation Note.

3.2 In the case of older properties that are already houses in multiple occupation assessment will be only against the local authorities standards (probably the Benchmark Standards), unless there is a need to make application for a warrant.

3.3 Newly built houses in multiple occupation must meet the Technical Standards applied to all new buildings of the relevant purpose group. In addition, new built premises will also be assessed before licensing, so that matters outside the scope of the Technical Standards, such as fire-fighting equipment, can be considered.

3.4 Houses in multiple occupation which are being created by conversions, alterations, or where there is change of use must meet the Technical Standards applied to the relevant purpose group. In addition, such premises will also be assessed before licensing.

### 4. PURPOSE GROUPS

4.1 A house in multiple occupation may be in any one of the following purpose groups, depending on the building type and the occupants, as in the following table:

<b>1A</b>	up to six people living together as a single household in a flat or maisonette
<b>1B</b>	up to six people living together as a single household in a house with a habitable storey at a height exceeding 4.5m
<b>1C</b>	up to six people living together as a single household in a house with a no habitable storey at a height exceeding 4.5 m
<b>2A</b>	people living together in a residential institution for the elderly or children, or where care or treatment is provided
<b>2B shared residential accommodation</b>	up to ten people living together in a building (which is not in purpose group 2A), where no storey is at a height exceeding 7.5m, and which is entered from the open air at ground level
<b>2B</b>	any other residential building

4.2 The application by an operator for a licence as a House in Multiple Occupation **will not necessarily indicate that there is a change of use or a change of purpose sub-group**. If there is no change of use

or change of sub-purpose group then **there will be no need for a warrant application** and only the guidance in the local authority standards (probably the Benchmark Standards) will apply. However if there is a change of use, or purpose sub-group then a warrant will also be required and the property will have to comply with the mandatory Technical Standards.

4.3 It should be remembered that purpose group 1 buildings includes those where up to six people are living together as a single household. In some houses in multiple occupation the tenants may live together as a single household and where this occurs the building may be in purpose group 1. Only where the number of residents exceed six or they are not living as a single household will a house in multiple occupation be in purpose group 2.

4.4 It may be necessary to make an assessment of whether or not a group of tenants are living together as a single household in order to establish if there is in fact a change of purpose group. Although there is nothing in the Technical Standards to define the characteristics of a single household we would offer the following as examples of what might be considered. Do the tenants eat together on a regular basis ? Eating together is something you would normally expect in a single household. What happens if one tenant leaves the property ? The choice of the replacement would normally be the responsibility of the other members in a single household.

4.5 The diagram on the next page shows the relationship between Benchmark Standards and the Technical Standards when considering licensing a house in multiple occupation, and indicates when it is necessary to obtain a warrant for building work.

## 5. FURTHER INFORMATION

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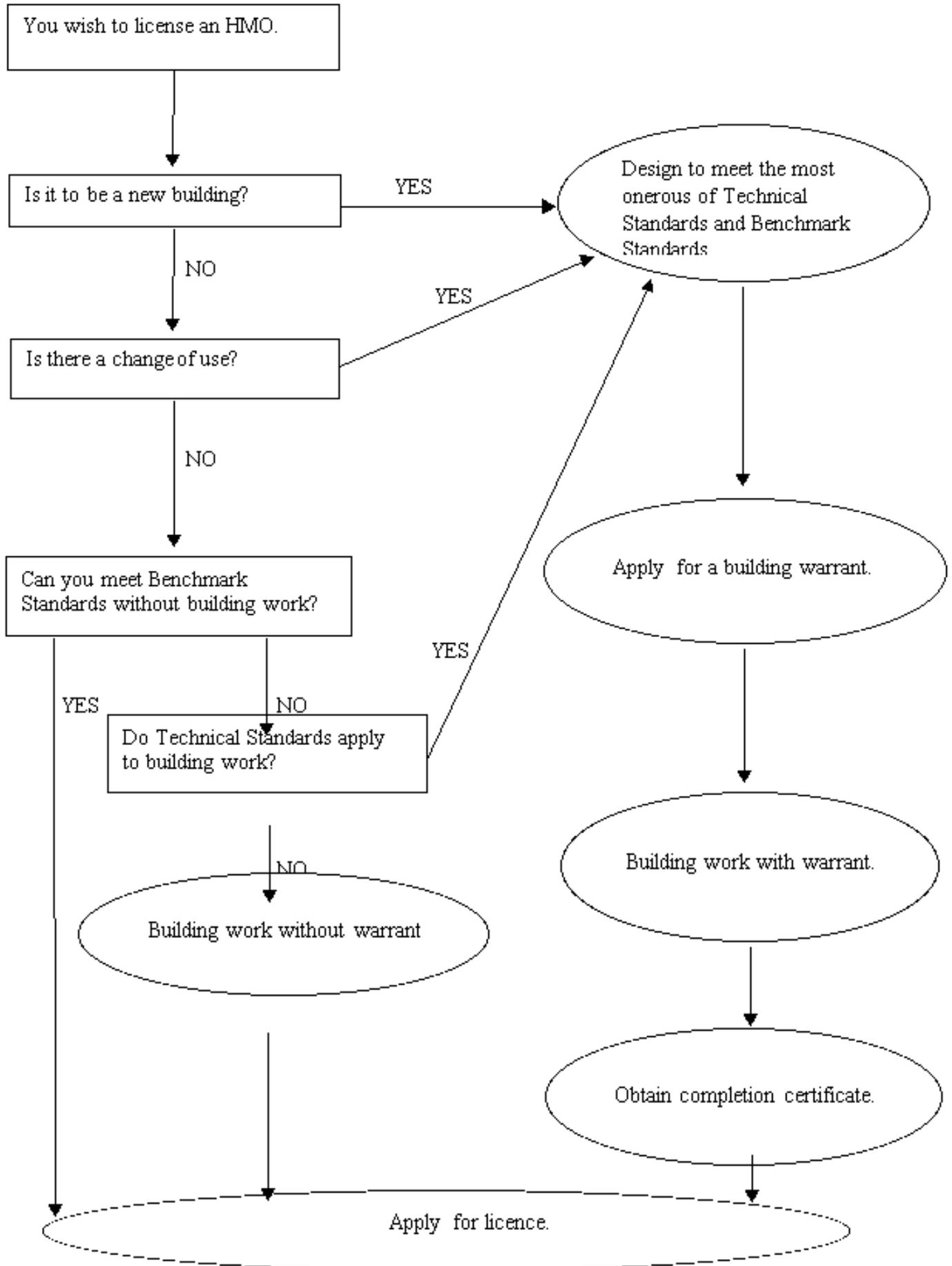
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# The Mandatory Licensing of Houses in Multiple Occupation

## Flow Chart



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# SCOTTISH EXECUTIVE

## The Mandatory Licensing of Houses in Multiple Occupation

### APPENDIX : BENCHMARK STANDARDS

#### 1. Space Standards

##### 1.1 Overcrowding

Local authorities should ensure that properties are not overcrowded. The definition of overcrowding is as set out in Part VII of the Housing (Scotland) Act 1987.

##### 1.2 Space standards

Normally sleeping accommodation will be in the form of single or double bedrooms. Details are given in Annex A, which also provides for circumstances where this is not the case.

##### 1.3 Activity spaces

Every bedroom or living room should also be capable of accommodating at least:

- a. a bed; and
- b. a wardrobe (except where a built in wardrobe of equal size is provided); and
- c. a chest of drawers,

together with their associated activity spaces of the dimensions shown in Annex B.

#### 2. Kitchens

##### 2.1 Facilities

There should be:

- a. sinks - one for every six people. Sinks to have integral drainers.
- b. adequate food storage for the number of occupants to be provided (lockable where requested by occupant(s)).
- c. adequate impervious work surface to be provided.
- d. where cookers are supplied - one for every six people.

##### 2.2 Activity spaces

Cookers should be provided with the associated activity space of the dimensions shown in Annex C.

### **3. Sanitary Facilities**

#### **3.1 Sanitary facilities**

There should be:

- a. one watercloset for every five persons. (These should be located so that if they are not on same level as the bedrooms they are no further than the next floor up or down.)
- b. one bath or shower for every six people.

All persons living in the premises are to be included e.g. owner or manager where no separate exclusive facilities are provided.

#### **3.2 Wash hand basins in toilets**

Every toilet should have a washbasin within the toilet itself, or within an adjacent space providing the sole means of access to the toilet. The watercloset and washbasin should also be separated by a door from any room or space used wholly or partly for the preparation or consumption of food.

#### **3.3 Water supply**

Hot and cold supplies should be suitable and sufficient for purposes.

#### **3.4 Drainage**

A building should be provided with a safe and hygienic drainage system in compliance with the relevant British or European Standards.

#### **3.5 Location**

Every bedroom should be located so that it is not necessary to pass through another bedroom in order to reach a bathroom, toilet, or circulation space.

### **4. Space Heating**

#### **4.1 Provision**

Each bedroom and living room should have a fixed space heating appliance or be served by a central heating system, which may include any system of warm air or underfloor heating, capable of maintaining a temperature of 18 degrees Centigrade when the outside temperature is minus 1 degree Centigrade.

#### **4.2 Liquid petroleum gas (LPG)**

LPG type room heaters should be prohibited.

#### **4.3 Solid fuel**

4.3a A solid fuel appliance used in space heating should be approved by the licensing authority.

4.3b Annual inspection/cleaning of chimneys/flues should be carried out and a certificate provided stating that the system is functioning properly.

4.3c A solid fuel appliance should have a permanent supply of air either direct to the open air or to an adjoining space (including a sub-floor space) that is itself permanently ventilated direct to the open air. Air supply provided as follows will satisfy the requirement:

- i. traditional open flued fire: 50% of the cross-sectional area of the throat or the flue as appropriate; or
- ii. any other solid fuel appliance: a permanent air entry opening or openings with a total free area of 550 mm<sup>2</sup> for each kW of combustion appliance rated output over 5 kW.

#### 4.4 Oil fired

4.4a An oil-fired appliance, other than a room-sealed appliance, should have a permanent supply of air for combustion either direct to the open air or to an adjoining space (including a sub-floor space) which is itself permanently ventilated direct to the open air. Compliance with Section 4 of BS 5410: Part 1: 1997 will satisfy this requirement.

4.4b An oil-fired appliance installed in a confined space should have a permanent supply of air for cooling in addition to air for combustion, either direct to the open air or to an adjoining space (including a sub-floor space). Compliance with Clause 4.4.3 of BS 5410: Part 1: 1997 will satisfy this requirement.

#### 4.5 Gas fired

4.5a A gas-fired appliance should have an adequate supply of air for combustion. Compliance with the following British Standards will satisfy this requirement:

- i. for a decorative fuel-effect gas appliance, BS 5871: Part 3: 1991;
- ii. for an inset live fuel-effect gas appliance, BS 5871: Part 2: 1991;
- iii. for any other gas-fired appliance, BS 5440: Part 2: 1989.

4.5b A gas-fired appliance installed in a confined space should have an adequate supply of air for cooling in addition to air for combustion. Compliance with BS 5440: Part 2: 1989 will satisfy this requirement.

4.5c Annual certification that installed gas systems have been examined by a qualified person (CORGI registered), that they are functioning properly and ventilation is adequate should be provided.

#### 4.6 Extract fans

Where an extract fan is fitted in the same room (or in an adjoining room) as an open-flued combustion appliance a spillage test should be carried out to ensure the combustion appliance is operating safely. Testing to the following guidance will satisfy this requirement:

- a. for a solid fuel appliance, BRE Information Paper IP 7/94 (NOTE: An extract fan should not be fitted in the same room as an open-flued solid fuel appliance.)
- b. for an oil-fired appliance, Clause 4.4.7 of BS 5410: Part 1: 1997 and OFTEC Technical Information Note TI/112;
- c. for a gas-fired appliance, Clause 4.3.2.3 of BS 5440: Part 1: 1990.

## 5. Lighting and Ventilation

### 5.1 Natural lighting

Every bedroom and living room should have a window or windows of an aggregate glazed area equal to at least 1/15<sup>th</sup> of the floor area of the apartment and situated in an external wall or roof, or in a wall between the room and a conservatory.

## 5.2 Ventilation

Every bedroom and living room should have a window or windows with an opening area equal to at least 1/30<sup>th</sup> of the floor area of the apartment and situated in an external wall or roof, or in a wall between the room and a conservatory. Kitchens, bathrooms, and toilets should either have natural ventilation (with a window or windows with an opening area equal to at least 1/30<sup>th</sup> of the floor area) or adequate mechanical ventilation.

## 5.3 Artificial lighting

There should be an electric lighting system providing at least one lighting point to every circulation space, bedroom, living room, kitchen, bathroom, toilet and other space having a floor area of 2 square metres or more. Any lighting point serving a stair within an HMO should have controlling switches at each storey.

## 6. Fire Safety

In order to ascertain the adequacy of the existing fire precautions within an HMO, a risk assessment should be carried out by or on behalf of the prospective licensee to establish both the risk of fire occurring and the risk to people in the event of fire. This would apply to everyone using the HMO and should take adequate account of any disabled people with special needs. The fire precautions recommended for all HMOs include:

- means of detection and giving warning in case of fire;
- the provision of means of escape;
- the means of fighting fire; and
- the formulation of an emergency plan.

Experience has shown that the following essential elements should form the basic requirements for active and passive fire precautions in houses of multiple occupation with, of course, scope for flexibility in achieving the desired fire protection being available.

### 6.1 Detection and giving warning in case of fire

An HMO with more than six residents should be provided with a suitable fire detection and alarm system complying with BS 5839: Part 1: 1988: Type L2. An HMO with up to six residents should be provided with either a suitable fire detection and alarm system complying with BS 5839: Part 1: 1988: Type L3, or a system as set out in Annex D.

### 6.2 Means of escape from HMOs which are flats or maisonettes

6.2a An HMO which is a flat or maisonette with a storey at a height of more than 4.5 m should be planned so that either:

- i. it is provided with an exit through a door other than its main entrance; or
- ii. all living rooms and bedrooms are entered directly from a circulation space enclosed in fire

resisting construction having 30 minutes fire resistance (integrity and insulation) and any door in the enclosures should be a fire door with 30 minutes fire resistance (integrity), and the distance to be travelled from any door of any living room or bedroom to the exit is not more than 9 m; or

- iii. the distance to be travelled from any point within the HMO to the exit is not more than 9 m and the direction of travel is away from cooking facilities; or
- iv. sleeping accommodation, and that part of the circulation area which serves the sleeping accommodation and the exit to the flat, is separated from any other living room or kitchen by a construction providing at least 30 minutes fire resistance (integrity and insulation); and

A. any door in this construction is a fire door with 30 minutes fire resistance

(integrity), and

B. if that HMO has a storey at a height of more than 11 m and the distance to be travelled within the flat from any point to the exit is more than 15 m, there is an exit through a door, other than its main entrance, from the living accommodation.

6.2b Where an HMO is within a building and only has a single escape route which relies upon a common stair, then there should be a lobby enclosed by walls having 30 minutes fire resistance (integrity and insulation) within the HMO which protects access to that escape route, if:

- i. there are more than 10 residents, or
- ii. there are more than 6 residents and any storey in the building is at a height of over 7.5m, or
- iii. there are 6 or less residents and :

A. any storey in the building is at a height of over 11m; or

B. there are more than four dwellings or HMOs on any storey.

Doors in the wall should be fire doors and have 30 minutes fire resistance (integrity). A lobby is not required on the top storey of a building. [The lobby may be the same as the circulation space required to be enclosed under paragraph "c.ii" below.]

6.2c A wall with an adequate degree of fire resistance should be provided between the HMO and any other part of the same building. An adequate degree of fire safety is:

- i. 30 minutes (integrity and insulation) in buildings with no storey over 7.5 m above ground; and
- ii. 60 minutes (integrity and insulation) in buildings with any storey over 7.5m above ground.

Doors in the wall should be fire doors and have an adequate degree of fire safety (integrity only). [If a circulation space enclosed with fire resisting construction is required, and a lobby is provided with the fire safety required under paragraph "a.ii" above or a lobby with fire resistance is provided under paragraph "b" above, then the fire doors need not have more than 30 minutes fire resistance (integrity).]

6.2d A floor between the HMO and any other part of the same building should have any holes or gaps adequately fire-stopped.

6.2e Where the escape route from the front door of the HMO is within the building it should lead by way of circulation space or stairway directly to the outside.

6.2f Any part of an escape route from the front door of the HMO which is within the building should be provided with artificial lighting.

6.2g If the HMO is a maisonette or flat which has two or more storeys and one of them is at a height of more than 4.5m additional safety measures should be taken as set out in

Annex E.

6.3 Means of escape from HMOs which are not flats or maisonettes

In an HMO which is not a flat or maisonette and which has a storey at a height over 4.5m:

a. every stair should be enclosed in fire resisting construction having 30 minutes fire resistance (integrity and insulation) and any door in the enclosures should be a fire door with 30 minutes fire resistance (integrity),

**except -**

a stair in an HMO with a storey at a height exceeding 4.5 m by one storey which does not contain a living room, bedroom, or kitchen; and

b. every storey at a height of more than 7.5 m should be provided with an exit through a door other than its main entrance.

6.4 Means of escape from all HMOs which are in basements

6.4a A basement HMO, or an HMO with a basement storey, which contains a bedroom or living room should be provided with an exit through a door other than its main entrance. This alternative exit may provide access to a space below the adjoining ground from which there is access to ground level.

6.4b A stair within the HMO serving the basement storey should be enclosed in fire resisting construction having 30 minutes fire resistance (integrity and insulation). Such a fire resisting enclosure serving a basement storey should be separate from any fire resisting enclosure protecting a stair serving the remainder of the HMO. Any door in such fire resisting enclosures should be a fire door with 30 minutes fire resistance (integrity).

In this context a basement storey is one which is below the lowest storey in which there is an entrance from the level of the adjoining ground.

6.5 Means of escape from all HMOs - Emergency escape windows

A suitably designed and located emergency escape window situated in an external wall or roof should be provided in every bedroom or living room in an upper storey at a height of not more than 4.5m above ground level. This can be achieved by a window, or a door (French window) having an unobstructed openable area that is at least 0.33m<sup>2</sup> and at least 450 mm high and 450 mm wide (the route through the window may be at an angle rather than straight through). The bottom of the openable area should not be more than 1100 mm above the floor.

6.6 Means of escape from all HMOs - External escape

Where the escape from an HMO involves an external stair, balcony or flat roof, it should not be threatened by fire or smoke issuing from any door, window or ventilator in the proximity of the escape route.

### 6.7 Means of escape from all HMOs - Fire doors

A fire door in an HMO should be self-closing.

It may well be that existing solid timber doors, if well fitting, will provide the equivalent of 30 minutes fire resistance (integrity).

### 6.8 Internal linings

In an HMO all circulation areas and all kitchens should have walls and ceilings which are no worse than Class 1 for the surface spread of flame as set out in BS 476: Part 7: 1987.

### 6.9 Ventilation and heating

If an HMO has a storey at a height of more than 4.5 m or has a basement storey and is provided with a system of ducted warm air heating it should be designed to reduce the risk of fire and smoke spread (see Annex F). Where a mechanical ventilation system is provided in an HMO with more than six residents the system should be designed to reduce the spread of fire and smoke (see Annex G).

### 6.10 Emergency lighting

In any HMO with two or more storeys and more than six people, the escape routes within the HMO should be provided with adequate emergency lighting.

### 6.11 Fire-fighting equipment

The most useful form of fire-fighting equipment for general fire risks is the water-type extinguisher. One such extinguisher should be provided for approximately each 200 square metres of floor-space, with a minimum of one per floor. Extinguishers should normally be located in conspicuous positions on escape routes preferably near exit doors.

The local fire authority can advise on areas of special risk which may need carbon dioxide, dry powder or other types of extinguisher. In any case a light duty fire blanket should be provided in each communal cooking area.

### 6.12 Fire safety management

The adoption of proper fire safety management practices is required including the regular maintenance of fire safety equipment and systems and the giving of fire safety instructions to all residents and employees. Information on this and other related fire safety matters can be obtained from guidance contained in:

Fire Safety - an employers guide (ISBN 0-11-341229-0)

## 7. Electrical Safety

### 7.1 Certification

At least once every three years certification should be provided that the installed system and any appliances provided by the landlord have been examined by a competent person, are functioning properly and are safe.

## 7.2 Provision of sockets

There should be a minimum of –

- a. in each kitchen, 6 socket outlets;
- b. in each bedroom and living room, 4 socket outlets; and
- c. anywhere in the building, 4 additional socket outlets.

## 8: General Standards

### 8.1 Handrails

Every stair for a change in level of more than 600 mm should have a handrail on at least one side, fixed at a height of at least 840 mm and not more than 1 metre above the pitch line of a flight or surface of a landing.

### 8.2 Clothes drying

Suitable arrangements internally or externally should be provided for drying of clothes, bedding, etc.